

# CASE NO. 732-AT-12

SUPPLEMENTAL MEMORANDUM

January 31, 2013

Petitioner: **Zoning Administrator**

Prepared by: **Andy Kass, Associate Planner**  
**John Hall, Zoning Administrator**

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Request: Amend the Champaign County Zoning Ordinance as follows:

**Part A. Revise paragraph 7.1.2B. as follows:**

- (1) Strike "non-family" and replace with "non-resident".
- (2) Revise subparagraph 7.1.2B.i. to strike "five acres" and replace with "two acres in area"; and renumber the subparagraph to 7.1.2B.(1).
- (3) Revise subparagraph 7.1.2B.ii. to strike "five acres" and replace with "that are two acres in area"; add the phrase "and provided that"; and renumber the subparagraph to 7.1.2B.(2).
- (4) Add new subparagraph 7.1.2B.(3) to authorize that all employees may be present and working on the premises for no more than 5 days with any 30 day period due to inclement weather or as necessitated by other business considerations.
- (5) Add new subparagraph 7.1.2B.(4) to authorize that family members who are residents of the property when the HOME OCCUPATION is operating but who subsequently move from the premises may remain active in the HOME OCCUPATION and shall not be counted as a non-resident employee as long as their participation in the HOME OCCUPATION continues.

**Part B. Revise paragraph 7.1.2E. as follows:**

- (1) Strike "Second Division vehicle as defined by the Illinois Vehicle Code" and replace with "MOTOR VEHICLES"; and add the phrase "and parked at".
- (2) Add new subparagraph 7.1.2E.(1) to require that the number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established.
- (3) Renumber subparagraph 7.1.2E.i. to be 7.1.2E.(2) and strike "vehicles over 8,000 lbs. gross weight" and replace with "MOTOR VEHICLES that are either a truck tractor and/or a MOTOR VEHICLE with tandem axles, both as defined by the Illinois Vehicle Code (625 ILCS 5/1 et seq)"; and add the phrase "and all MOTOR VEHICLE loads and weights shall conform to the Illinois Vehicle Code (625 ILCS 5/15-111)".
- (4) Renumber subparagraph 7.1.2E.ii. to be 7.1.2E.(3) and strike "vehicles" and replace with "MOTOR VEHICLES"; and strike "vehicles under 8,000 lbs. gross vehicle weight"; and insert "licensed"; and strike "and off-road vehicles"; and insert the phrase "or owner".
- (5) Renumber subparagraph 7.1.2E.iii. to be 7.1.2E.(4) and strike "Second Division vehicles" and replace with "MOTOR VEHICLES and licensed trailers"; and strike "indoors" and replace with "in an enclosed building"; and add "outdoors subject to the following minimum separations for outdoor parking:"; and add the following subparagraphs:
  - (a) Add subparagraph 7.1.2E.(4)(a) to require that no more than 1 motor vehicle may be parked outdoors less than five feet from a

**Brookens  
Administrative Center**  
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side rear property line or less than 10 feet from a front property line.

- (b) Add subparagraph 7.1.2E.(4)(b) to require that outdoor parking for more than one motor vehicle shall be no less than 50 feet from any lot line and no less than 100 feet from any offsite dwelling.
  - (c) Add subparagraph 7.1.2E.(4)(c) to require that outdoor parking for more than one motor vehicle that does not meet certain requirements shall be at least 10 feet from any lot line and be screened.
- (6) Add subparagraph 7.1.2E.(5) to require that paragraphs 7.1.2E. and 7.1.2F. apply to all new RURAL HOME OCCUPATION and to any expansion of a RURAL HOME OCCUPATION that is filed after September 1, 2012.
- (7) Add subparagraph 7.1.2E.(6) (a) and (b) to require the following:
- (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included on an application for a RURAL HOME OCCUPATION that was received before September 1, 2012, may continue to be used provided that the total number of vehicles are not more than 10 and no more than 3 may be truck tractors or MOTOR VEHICLES with tandem axles as defined by the Illinois Vehicle Code.
  - (b) Any RURAL HOME OCCUPATION that complies with 7.1.2E.(6) shall be authorized to have the same number of motor vehicles or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar motor vehicle or licensed trailer or piece of equipment.

**Part C. Add new paragraph 7.1.2F. as follows:**

- (1) Limit the number of motorized or non-motorized complete pieces of non-farm equipment in outdoor storage to 10 complete pieces, provided that the number of pieces of equipment that may be in outdoor storage shall be reduced by the number of MOTOR VEHICLES and licensed trailers that are also parked outdoors.
- (2) Require that equipment in outdoor storage meet the same separations required for MOTOR VEHICLES in 7.1.2E.(4)(b) and 7.1.2E.(4)(c).

**Part D. Revise paragraph 7.1.2H. to require that more than four vehicles for patrons and onsite employees shall be screened; and also provide that loading berths are not required for RURAL HOME OCCUPATIONS.**

**Part E. Revise paragraph 7.1.2K. as follows:**

- (1) Add the phrase "for other than equipment used in any RURAL HOME OCCUPATION"; and strike the phrase "screened as provided by Section 7.6, and replace with the phrase "shall be provided as follows:".

- (2) Add subparagraph 7.1.2K.(1) to require that no outdoor storage be located in any required off street parking spaces.
- (3) Add subparagraph 7.1.2K.(2) to require screening if outdoor storage occurs in any yard within 1,000 feet of certain specified uses of surrounding property.

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### STATUS

This is the first hearing for this case. A Draft Finding of Fact and Final Determination is attached. Also attached is the February 29, 2012, memo to the Champaign County Board Committee of the Whole that includes the ZBA minutes from the hearings for Case 695-I-11.

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### SUMMARY FINDING OF FACT

The Summary Finding of Fact on Page 11 of the Draft Finding of Fact indicates the following:

1. The proposed Zoning Ordinance text amendment **IS NECESSARY TO ACHIEVE** the Land Resource Management Plan because:
  - A. The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** LRMP Goals (6) and (7).
  - B. The proposed Zoning Ordinance text amendment **WILL NOT IMPEDE** the achievement of LRMP Goals 1, 2, 3, 4, (6), (7), 8, and 9.
  - C. The proposed Zoning Ordinance text amendment is **NOT RELEVANT** to LRMP Goals 5 and 10.
2. The proposed text amendment **WILL** improve the Zoning Ordinance because it will:
  - A. **HELP ACHIEVE** the purpose of the Zoning Ordinance (see Item 16 on pages 7-9).
  - B. **WILL** improve the text of the Zoning Ordinance (see Item 17 on page 10)

Note: Staff has not made a recommendation for Goals 6 and 7 which is why they are both included in Items 1.A. and 1.B. above. Once the Board makes a determination on Goals 6 and 7 this case will be ready for Final Action.

### ATTACHMENTS

- A Draft Finding of Fact and Final Determination
- B Memo to the Champaign County Board Committee of the Whole dated February 29, 2012, with attachments (included separately):
  - A Approved Minutes for Case 695-I-11 from the July 28, 2011, ZBA Meeting
  - B Approved Minutes for Case 695-I-11 from the December 15, 2011, ZBA Meeting
  - C Proposed Paragraph 7.1.2E.

**DRAFT**

**732-AT-12**

**FINDING OF FACT  
AND FINAL DETERMINATION**

**of**

**Champaign County Zoning Board of Appeals**

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Final Determination: ***{RECOMMEND ENACTMENT/RECOMMEND DENIAL}***

Date: January 31, 2013

Petitioner: Zoning Administrator

- Request:
- Part A. Revise paragraph 7.1.2B. as follows:
    - (1) Strike “non-family” and replace with “non-resident”.
    - (2) Revise subparagraph 7.1.2B.i. to strike “five acres” and replace with “two acres in area”; and renumber the subparagraph to 7.1.2B.(1).
    - (3) Revise subparagraph 7.1.2B.ii. to strike “five acres” and replace with “that are two acres in area”; add the phrase “and provided that”; and renumber the subparagraph to 7.1.2B.(2).
    - (4) Add new subparagraph 7.1.2B.(3) to authorize that all employees may be present and working on the premises for no more than 5 days with any 30 day period due to inclement weather or as necessitated by other business considerations.
    - (5) Add new subparagraph 7.1.2B.(4) to authorize that family members who are residents of the property when the HOME OCCUPATION is operating but who subsequently move from the premises may remain active in the HOME OCCUPATION and shall not be counted as a non-resident employee as long as their participation in the HOME OCCUPATION continues.
  - Part B. Revise paragraph 7.1.2E. as follows:
    - (1) Strike “Second Division vehicle as defined by the Illinois Vehicle Code” and replace with “MOTOR VEHICLES”; and add the phrase “and parked at”.
    - (2) Add new subparagraph 7.1.2E.(1) to require that the number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established.
    - (3) Renumber subparagraph 7.1.2E.i. to be 7.1.2E.(2) and strike “vehicles over 8,000 lbs. gross weight” and replace with “MOTOR VEHICLES that are either a truck tractor and/or a MOTOR VEHICLE with tandem axles, both as defined by the Illinois Vehicle Code (625 ILCS 5/1 et seq)”; and add the phrase “and all MOTOR VEHICLE loads and weights shall conform to the Illinois Vehicle Code (625 ILCS 5/15-111)”.
    - (4) Renumber subparagraph 7.1.2E.ii. to be 7.1.2E.(3) and strike “vehicles” and replace with “MOTOR VEHICLES”; and strike “vehicles under 8,000 lbs. gross vehicle weight”; and insert “licensed”; and strike “and off-road vehicles”; and insert the phrase “or owner”.
    - (5) Renumber subparagraph 7.1.2E.iii. to be 7.1.2E.(4) and strike “Second Division vehicles” and replace with “MOTOR VEHICLES and licensed trailers”; and strike “indoors” and replace with “in an enclosed building”; and add “outdoors subject to the following minimum separations for outdoor parking.”; and add the following subparagraphs:

**DRAFT**

- (a) Add subparagraph 7.1.2E.(4)(a) to require that no more than 1 motor vehicle may be parked outdoors less than five feet from a side rear property line or less than 10 feet from a front property line.
  - (b) Add subparagraph 7.1.2E.(4)(b) to require that outdoor parking for more than one motor vehicle shall be no less than 50 feet from any lot line and no less than 100 feet from any offsite dwelling.
  - (c) Add subparagraph 7.1.2E.(4)(c) to require that outdoor parking for more than one motor vehicle that does not meet certain requirements shall be at least 10 feet from any lot line and be screened.
- (6) Add subparagraph 7.1.2E.(5) to require that paragraphs 7.1.2E. and 7.1.2F. apply to all new RURAL HOME OCCUPATION and to any expansion of a RURAL HOME OCCUPATION that is filed after September 1, 2012.
- (7) Add subparagraph 7.1.2E.(6) (a) and (b) to require the following:
- (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included on an application for a RURAL HOME OCCUPATION that was received before September 1, 2012, may continue to be used provided that the total number of vehicles are not more than 10 and no more than 3 may be truck tractors or MOTOR VEHICLES with tandem axles as defined by the Illinois Vehicle Code.
  - (b) Any RURAL HOME OCCUPATION that complies with 7.1.2E.(6) shall be authorized to have the same number of motor vehicles or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar motor vehicle or licensed trailer or piece of equipment.
- Part C. Add new paragraph 7.1.2F. as follows:
- (1) Limit the number of motorized or non-motorized complete pieces of non-farm equipment in outdoor storage to 10 complete pieces, provided that the number of pieces of equipment that may be in outdoor storage shall be reduced by the number of MOTOR VEHICLES and licensed trailers that are also parked outdoors.
  - (2) Require that equipment in outdoor storage meet the same separations required for MOTOR VEHICLES in 7.1.2E.(4)(b) and 7.1.2E.(4)(c).
- Part D. Revise paragraph 7.1.2H. to require that more than four vehicles for patrons and onsite employees shall be screened; and also provide that loading berths are not required for RURAL HOME OCCUPATIONS.
- Part E. Revise paragraph 7.1.2K. as follows:
- (1) Add the phrase “for other than equipment used in any RURAL HOME OCCUPATION”; and strike the phrase “screened as provided by Section 7.6, and replace with the phrase “shall be provided as follows.”.
  - (2) Add subparagraph 7.1.2K.(1) to require that no outdoor storage be located in any required off street parking spaces.
  - (3) Add subparagraph 7.1.2K.(2) to require screening if outdoor storage occurs in any yard within 1,000 feet of certain specified uses of surrounding property.

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 31, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to amend the requirements for Rural Home Occupations (RHO) in Section 7.1.2 of the Zoning Ordinance.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

***SUMMARY OF THE PROPOSED AMENDMENT***

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

***GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES***

5. The *Champaign County Land Resource Management Plan (LRMP)* was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
  - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
  - B. The LRMP defines Goals, Objectives, and Policies as follows:
    - (1) Goal: an ideal future condition to which the community aspires
    - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
    - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
  - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

**REGARDING LRMP GOALS**

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:

**Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.**

Goal 1 has 4 objectives and 4 policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 1.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

**Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.**

Goal 2 has two objectives and three policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 2.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

**Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.**

Goal 3 has three objectives and no policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 3.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

**Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.**

Goal 4 has 9 objectives and 22 policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 4.

10. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

**Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.**

Goal 5 has 3 objectives and 15 policies. The proposed amendment is *NOT RELEVANT* to Goal 5 in general.



11. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

**Champaign County will ensure protection of the public health and public safety in land resource management decisions.**

Goal 6 has 4 objectives and 7 policies. The proposed amendment *{WILL NOT IMPEDE / WILL HELP ACHIEVE}* Goal 6 for the following reasons:

- A. Objective 6.1 states as follows: “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**”

The proposed amendment *{WILL NOT IMPEDE / WILL HELP ACHIEVE}* Objective 6.1 for the following reasons:

- (1) Part of intent of the specific limits on the number and weight of vehicles, equipment, and trailers that can be parked at a RURAL HOME OCCUPATION is to minimize traffic impacts and promote public safety.
- B. The proposed amendment is *NOT RELEVANT* to Objectives 6.2, 6.3, and 6.4 and Policies 3.1.1, 6.1.2, 6.1.3, 6.1.4, 6.2.1, 6.2.2, and 6.2.3.

12. LRMP Goal 7 is entitled “Transportation” and states as follows:

**Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.**

Goal 7 has 2 objectives and 7 policies. The proposed amendment *{WILL NOT IMPEDE / WILL HELP ACHIEVE}* Goal 7 for the following reasons:

- A. Objective 7.1 states as follows: “**Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.**”

The proposed amendment *{WILL NOT IMPEDE / WILL HELP ACHIEVE}* Objective 7.1 for the following reasons:

- (1) Part of intent of the specific limits on the number and weight of vehicles, equipment, and trailers that can be parked at a RURAL HOME OCCUPATION is to minimize traffic impacts.
- B. The proposed amendment *WILL NOT IMPEDE* the achievement of Objective 7.2 and Policies 7.2.1 and 7.2.3. The proposed amendment is *NOT RELEVANT* to Policies 7.1.1, 7.2.2, 7.2.4, 7.2.5, and 7.2.6.

13. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

**Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.**

Goal 8 has 9 objectives and 36 policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 8.

14. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

**Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.**

Goal 9 has 5 objectives and 5 policies. The proposed amendment *WILL NOT IMPEDE* the achievement of Goal 9.

15. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

**Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.**

Goal 10 has 1 objective and 1 policy. Goal 10 is *NOT RELEVANT* to the proposed amendment in general.

***REGARDING THE PURPOSE OF THE ZONING ORDINANCE***

16. The proposed amendment appears to *HELP ACHIEVE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is not directly related to this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is directly related to this purpose by requiring that screening be provided in certain instances which should help mitigate impacts on values of neighboring structures and properties.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed amendment is directly related to this purpose by clarifying the existing regulations for the number and size of MOTOR VEHICLES that can be parked at a RURAL HOME OCCUPATION.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed amendment is not directly related to this purpose.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is not directly related to this purpose, but the amendment does limit the number and size of vehicles, equipment, trailers, and employees that may be parked at a RURAL HOME OCCUPATION, thus promoting public safety.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.

The proposed amendment is not directly related to this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.

The proposed amendment is not directly to this purpose by clarifying and improving the existing standards to limit the intensity of a Rural Home Occupation.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.

The proposed amendment is directly related to this purpose by clarifying and improving the existing standards for the number and size of vehicles, trailer, or equipment and the number of employees that may participate in the RURAL HOME OCCUPATION.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of

land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is not directly related to this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed amendment is not directly related to this purpose.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed amendment is directly related to this purpose because the amendment is intended to ensure that Rural Home Occupations maintain compatibility with the Zoning Districts in which they are located.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is not directly related to this purpose.

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed amendment is not directly related to this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of

agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is not directly related to this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is not directly related to this purpose.

17. The proposed text amendment *WILL* improve the text of the Zoning Ordinance because it *WILL* provide:
- A. Clarification on how the number of non-farm vehicles, equipment, and trailers associated with a RURAL HOME OCCUPATION are regulated. Clarification of this was supported by the Zoning Board of Appeals in the public hearings on July 28, 2011, and December 15, 2011, for Case 695-I-11.
  - B. Flexibility for family members who lived onsite when a RURAL HOME OCCUPATION was operating to no longer be considered a non-resident employee when they move from the property.
  - C. Clarification of the screening requirements for outdoor storage of vehicles and non-farm equipment.
  - D. No limits to RURAL HOME COCUPATIONS that existed prior to September 1, 2012, will be imposed other than a limit of 10 MOTOR VEHICLES and a limit of 3 MOTOR VEHICLES with tandem axles.
  - E. Provisions for all RURAL HOME OCCUPATION employees to be onsite for no more than 5 days in a 30 day period for reasons such as inclement weather or other reasons.
  - F. An increase of one additional employee that may be present on the premises and an increase of two additional employees that may report to the site for work off premises on lots two acres or larger.

**SUMMARY FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on, **January 31, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance text amendment ***IS NECESSARY TO ACHIEVE*** the Land Resource Management Plan because:
  - A. The proposed Zoning Ordinance text amendment will ***HELP ACHIEVE*** LRMP Goals (6) and (7).
  - B. The proposed Zoning Ordinance text amendment ***WILL NOT IMPEDE*** the achievement of LRMP Goals 1, 2, 3, 4, (6), (7), 8, and 9.
  - C. The proposed Zoning Ordinance text amendment is ***NOT RELEVANT*** to LRMP Goals 5 and 10.
  
2. The proposed text amendment ***WILL*** improve the Zoning Ordinance because it will:
  - A. ***HELP ACHIEVE*** the purpose of the Zoning Ordinance (see Item 16 on pages 7-9).
  - B. ***WILL*** improve the text of the Zoning Ordinance (see Item 17 on page 10)

**DOCUMENTS OF RECORD**

1. Preliminary Memorandum dated January 25, 2013, with attachments:
  - A Memo to the Champaign County Board Committee of the Whole dated February 1, 2012, with attachments:
    - B Proposed Amendment to Paragraph 7.1.2E.
  - B Memo to the Champaign County Board Committee of the Whole dated September 25, 2012, with attachments:
    - A Existing subsection 7.1.2 Rural Home Occupation
    - B Revised Proposed Amendment (Annotated) to Section 7.1.2 Rural Home Occupations dated September 20, 2012
    - C Revised Proposed Amendment (Non-Annotated) to Section 7.1.2 Rural Home Occupations dated September 20, 2012
    - D Table comparing Existing Ordinance Requirements for Rural Home Occupation to Proposed Amendment
  - C LRMP Land Use Goals, Objectives, and Policies & Appendix
  
2. Supplemental Memorandum dated January 31, 2013, with attachment:
  - A Draft Finding of Fact and Final Determination
  - B Memo to the Champaign County Board Committee of the Whole dated February 29, 2012 with attachments:
    - A Approved Minutes for Case 695-I-11 from the July 28, 2012, ZBA Meeting
    - B Approved Minutes for Case 695-I-11 from the December 15, 2012, ZBA Meeting
    - C Proposed Paragraph 7.1.2E.

**FINAL DETERMINATION**

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in **Case 732-AT-12** should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date



**Proposed Amendment**

**1. Revise paragraph 7.1.2 B. to read as follows:**

- B. Non-resident, non-family employees shall only be permitted subject to the following limitations:
- (1) on lots smaller than two acres in area no more than one employee may be present on the premises and no more than one additional employee may report to the site for work performed off the premises; but
  - (2) on lots that are two acres in area or larger no more than two employees may be present on the premises and no more than three additional employees may report to the site for work performed off the premises; and provided that
  - (3) all employees may be present and working on the premises for no more than five days within any 30 day period due to inclement weather or as necessitated by other business considerations; and further provided that
  - (4) family members who are resident on the property while the HOME OCCUPATION is operating but who mature and subsequently move from the premises may remain active in the home occupation and shall not be counted as a non-resident employee as long as their participation in the HOME OCCUPATION continues.

**2. Revise existing paragraph 7.1.2E. to read as follows:**

- E. Non-farm MOTOR VEHICLES used in any RURAL HOME OCCUPATION shall be limited as follows:
- (1) The number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph.
  - (2) No more than three MOTOR VEHICLES that are either a truck tractor and/ or a MOTOR VEHICLE with tandem axles, both as defined by the Illinois Vehicle Code (625 ILCS 5/1 et seq), shall be permitted and all MOTOR VEHICLE loads and weights shall conform to the Illinois Vehicle Code (625 ILCS 5/15-111).
  - (3) No more than 10 MOTOR VEHICLES in total, including licensed trailers shall be permitted excluding patron or employee or owner personal MOTOR VEHICLES.
  - (4) All MOTOR VEHICLES and licensed trailers shall be stored in an enclosed BUILDING or parked outdoors subject to the following minimum separations for outdoor parking:
    - (a) no more than one MOTOR VEHICLE that conforms to paragraph 7.1.1 K. may be parked outdoors no less than five feet from a SIDE or REAR LOT LINE nor less than 10 feet from a FRONT LOT LINE; and

- (b) outdoor parking for more than one MOTOR VEHICLE shall be no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE; or
    - (c) if less than 50 feet from any lot line and/ or less than 100 feet from any off-site existing DWELLING conforming as to USE, outdoor parking for more than one MOTOR VEHICLE shall be at least 10 feet from any LOT LINE and screened by a Type A SCREEN except that more than one MOTOR VEHICLE that is more than 15,000 pounds gross vehicle weight must be screened with a Type D SCREEN.
  - (5) The above requirements of paragraphs 7.1.2E. and F. shall apply to any RURAL HOME OCCUPATION for which an application is received after ~~May~~ September 1, 2012, and to the expansion of any RURAL HOME OCCUPATION for which an application had been received on or before September 1, 2012.
  - (6) The above requirements of paragraph 7.1.2E. and the requirements of Section 8 notwithstanding:
    - (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included in any application for, or authorization of, any RURAL HOME OCCUPATION for which an application had been received by the Zoning Administrator on or before ~~May~~ September 1, 2012, may continue to be used in that RURAL HOME OCCUPATION provided that the total number of MOTOR VEHICLES in the RURAL HOME OCCUPATION are not more than 10 and further provided that no more than 3 such MOTOR VEHICLES are truck tractors or MOTOR VEHICLES with tandem axles, both as defined by the Illinois Vehicle Code (625 ILCS 5/1 et seq),
    - (b) Any RURAL HOME OCCUPATION that complies with subparagraph 7.1.2E.(10)(a) shall be authorized to have that same number of MOTOR VEHICLES or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar MOTOR VEHICLE or licensed trailer or piece of equipment.
- 3. Insert new paragraph 7.1.2F. (and reletter the existing paragraphs) to read as follows:**
- F. Non-farm equipment used in any RURAL HOME OCCUPATION shall be limited as follows:
    - (1) The number of complete pieces of equipment that are motorized or non-motorized and used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph. Complete pieces of equipment shall include, but not be limited to, bucket loaders, road graders, bulldozers, trenchers, backhoes, riding lawn mowers, devices mounted on trailers, and any agricultural equipment used for non-agricultural uses. Equipment does not include hand tools or bench tools or tools mounted on a table or wheel barrows or similar tools.

- (2) No more than 10 complete pieces of equipment may be kept in outdoor STORAGE provided, however, that the number of pieces of equipment that may be kept in outdoor STORAGE shall be reduced by the number of MOTOR VEHICLES and trailers also parked outdoors and all other equipment must be kept in an enclosed BUILDING. This limit shall apply to each individual piece of equipment. Equipment kept in outdoor STORAGE must meet the following minimum separations for outdoor STORAGE of equipment:
  - (a) Equipment in outdoor STORAGE shall be no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE; or
  - (b) if less than 50 feet from any lot line and/ or less than 100 feet from any off-site existing DWELLING conforming as to USE, equipment stored outdoors shall be stored at least 10 feet from any LOT LINE and screened by a Type A SCREEN except that equipment taller than four feet must be screened with a Type D SCREEN.

**4. Revise paragraph 7.1.2H. to read as follows:**

- H. Off-street parking spaces shall be provided in the minimum size and number required by Section 7.4 for all onsite employees and onsite patrons. More than four such vehicles shall be screened as required by 7.1.2 E. 4. Loading berths are not required for Rural Home Occupations.

**5. Revise paragraph 7.1.2 K. to read as follows:**

- K. Outdoor STORAGE for other than equipment used in any RURAL HOME OCCUPATION shall be limited as follows:
  - (1) Outdoor STORAGE shall not be located in any required off-street PARKING SPACES.
  - (2) A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE which is visible within 1,000 feet from any of the following circumstances;
    - (a) Any point within the BUILDING RESTRICTION LINE of any lot located in any R district or any lot occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or hospital; recreational business use with outdoor facilities; or
    - (b) Any designated urban arterial street or MAJOR STREET.

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

To: **Champaign County Board Committee of the Whole**  
From: **John Hall, Director & Zoning Administrator**  
Date: **February 29, 2012**  
RE: **Zoning Ordinance requirements for Rural Home Occupations**  
Request: **Request approval to proceed with a public hearing for an amendment to the Zoning Ordinance limits for numbers of vehicles and large equipment authorized in Rural Home Occupations**

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**STATUS**

This item is continued from the February 7, 2012, meeting. The Committee requested the minutes of the zoning case at the ZBA and the minutes are attached.

The proposed amendment remains unchanged (see attached).

This memorandum includes text (see below) that would "grandfather" all existing vehicles and equipment at any existing Rural Home Occupation (RHO), including the RHO that was the subject of the Interpretation Case.

If the Committee desires to grandfather existing vehicles and equipment, the motion (or direction) to proceed with the proposed amendment must include grandfathering existing vehicles and equipment at existing RHOs.

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**GRANDFATHERING OF EXISTING VEHICLES AND EQUIPMENT**

Even if the Committee agrees with the proposed amendment for future Rural Home Occupations (RHOs), the Committee could decide that the proposed amendment should not apply to any existing vehicles and equipment at any authorized RHO, including the subject RHO. If that is the Committee's desire the following text must be added to the proposed paragraph 7.1.2E.:

- (9) The above requirements of paragraph 7.1.2E. shall apply to any RURAL HOME OCCUPATION for which an application is received after May 1, 2012, and to the expansion of any RURAL HOME OCCUPATION for which an application had been received on or before May 1, 2012.
- (10) The above requirements of paragraph 7.1.2E. and the requirements of Section 8 notwithstanding:
  - (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included in any application for, or authorization of, any RURAL HOME OCCUPATION for which an application had been received by the Zoning Administrator on or before May 1, 2012, may continue be used in that RURAL HOME OCCUPATION provided that the total number of MOTOR VEHICLES in the RURAL HOME OCCUPATION are not more than 10 and further provided that no more than 3 such MOTOR VEHICLES are each more than 15,000 pounds gross weight.

**Zoning Administrator**  
**FEBRUARY 29, 2012**

- (b) Any RURAL HOME OCCUPATION that complies with subparagraph 7.1.2E.(10)(a) shall be authorized to have that same number of MOTOR VEHICLES or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar MOTOR VEHICLE or licensed trailer or piece of equipment.

Note that the grandfathering only applies to the following:

1. No more than 10 MOTOR VEHICLES in total. The existing Ordinance clearly establishes this limit.
2. No more than 3 MOTOR VEHICLES that are each more than 15,000 pounds gross weight. All other MOTOR VEHICLES must be less than 15,000 pounds gross weight. The existing Ordinance clearly establishes a limit of no more than 3 vehicles that are than 8,000 pounds gross weight. The proposed amendment increases that weight limit to 15,000 pounds and so that is also what is proposed to be grandfathered. Note a large SUV, van, or dually pickup truck are each less than 15,000 pounds gross weight.
3. Any number of trailers and pieces of equipment with no weight limits, provided that the trailers and equipment were included on the application. The ZBA agreed that the existing Ordinance was not clear regarding limits on equipment and so all existing equipment is proposed to be grandfathered so long as it was included on (or is added to) the application.

**ATTACHMENTS**

- A**    **Approved Minutes for Case 695-I-11 from the July 28, 2011, ZBA Meeting**
- B**    **Approved Minutes for Case 695-I-11 from the July 28, 2011, ZBA Meeting**
- C**    **Proposed Paragraph 7.1.2 E.**

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1 Mr. Hall stated that the septic system information should be submitted by the petitioner for review by  
2 staff and the Board.

3  
4 Mr. Thorsland stated that it appears that this case will be continued to a later date and the next  
5 available date on the ZBA Docket is October 13<sup>th</sup> which is past the 100 day limit for a continuance.  
6

7 **Ms. Capel moved, seconded by Mr. Schroeder to suspend the 100 day rule for a continuance**  
8 **date for Case 692-V-11. The motion carried by voice vote.**  
9

10 **Ms. Capel moved, seconded by Mr. Courson to continue Case 692-V-11, Rollae Keller to the**  
11 **October 13, 2011, meeting. The motion carried by voice vote.**  
12

13 Mr. Thorsland requested a motion for the Board to go into closed session.  
14

15 **Mr. Miller moved that the Board enter into closed session pursuant to 5 ILCS 120/2 (c) (11) to**  
16 **consider pending litigation against Champaign County. Mr. Miller further moved that the**  
17 **following individuals remain present: County's legal counsel, John Hall, Planning and Zoning**  
18 **Administrator, Connie Berry, Planning and Zoning Technician and Lori Busboom, Planning**  
19 **and Zoning Technician. The motion was seconded by Ms. Capel and carried by voice vote.**  
20

21 **The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.**  
22

23 **The roll was called and a quorum declared present.**  
24

25 **Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of**  
26 **paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as**  
27 **follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,**  
28 **transport, or move people, property or material either on road or primarily off road; or a**  
29 **piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm**  
30 **vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross**  
31 **vehicle weight, including trailers and off-road vehicles but excluding patron or employee**  
32 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**  
33 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**  
34 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**  
35 **shed at 700 County Road 2175N, Champaign.**  
36

37 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the  
38 witness register. He reminded the audience that when they sign the witness register they are  
39 signing an oath.  
40

41 Mr. Hall stated that the Board does not hear interpretation cases often and in this case he offered to  
42 bring this case to the Zoning Board because he agrees with Mr. Kelly Dillard, the owner of the

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1 property in question, that 7.1.2 E. of the Ordinance is very poorly written. Mr. Hall said that  
2 Paragraph 7.1.2 E. is attached to the Preliminary Memorandum dated July 22, 2011. He said that he  
3 implements Paragraph 7.1.2 E. the way that the request was read and it would be fair to say that  
4 when Paragraph 7.1.2 E. is read it isn't clear what is meant. He said that Attachment B. of the  
5 Preliminary Memorandum reviews the background of why this case is before the ZBA. He said that  
6 understanding why the interpretation is before the Board is partly related to the background of the  
7 case. He said that Mr. Dillard has a Rural Home Occupation and Rural Home Occupations are one  
8 of the most difficult uses. He said that staff asks the applicant many questions which eventually  
9 appears to be prying into their business although staff does not pry any more than they are allowed.  
10 He said that staff has the right to pose the questions to the applicant to assure conformance with the  
11 Ordinance. He said that Attachment C-H are various documents related to the background included  
12 in Attachment B.  
13

14 Mr. Hall stated that color photographs were distributed to the Board for review which indicates the  
15 things that he is calling vehicles, although Mr. Dillard disagrees. He said that black and white  
16 photographs were marked up to indicate the number of vehicles on the subject property. He said that  
17 the photographs indicate that there are more vehicles on the property than what is allowed under a  
18 Rural Home Occupation and three times staff has requested that the applicant indicate the number of  
19 vehicles on the property. Mr. Hall stated that finally the applicant submitted the number of vehicles  
20 and staff disagreed therefore triggering this interpretation case.  
21

22 Mr. Hall stated that the current Rural Home Occupation requirements were added in Case 794-AT-  
23 92 and adopted in 1993. He said that he was not the Zoning Administrator in 1992 and was not the  
24 current planner but he was on staff with little involvement in that case. He said that the amendment  
25 was adopted in 1993 and Frank DiNovo was the Zoning Administrator at the time and continued to  
26 be until 2002. Mr. Hall stated that he, Jamie Hitt, Zoning Officer, and Lori Busboom, Zoning  
27 Technician have been in the department since 1993 and the rules have not been changed since they  
28 were adopted. He said that this is the first time that there has been a disagreement like this due to the  
29 number of vehicles on a property. He said again, that he agrees that Paragraph 7.1.2 E. is poorly  
30 written but he believes that Paragraph 7.1.2 E. is so poorly written that the way that staff has always  
31 administered it is legal. He said that Paragraph 7.1.2 E. starts off by suggesting that the paragraph  
32 relates to all non-farm, second division vehicles as defined by the Illinois Vehicle Code. He said that  
33 Kelly Dillard wrote a letter to Pius Weibel, Champaign County Board Chair that included an excerpt  
34 from the Illinois Vehicle Code which reads as follows: Those motor vehicles which are designed for  
35 carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor  
36 vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and  
37 those motor vehicles of the First Division remodeled for use and used as motor vehicles of the  
38 Second Division.  
39

40 Mr. Hall stated that a pick-up painted with a company name becomes a Second Division vehicle. He  
41 said that Paragraph 7.1.2 E. includes three subparagraphs and subparagraph iii. begins with all  
42 Second Division vehicles which is confusing because it was thought that all three of the

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1 subparagraph relates to Second Division vehicles therefore why do they point out in the third  
2 subparagraph that all Second Division vehicles shall be stored indoors. He said that there are a lot of  
3 inconsistencies in Paragraph 7.1.2 E. He said that subparagraph ii indicates that no more than 10  
4 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, trailers and off-road  
5 vehicles shall be permitted excluding patron or employee personal vehicles. He said that again  
6 subparagraph ii indicates no more than 10 vehicles in total and it discusses vehicles which weigh less  
7 than 8,000 pounds and it makes it clear that trailers and off-road vehicles are included but not  
8 exempted and they fall into the limit of 10 vehicles. He said that if subparagraph ii only discussed  
9 Second Division vehicles then why exclude personal vehicles because personal vehicles are by  
10 definition not Second Division vehicles. He said that subparagraph i indicates that no more than  
11 three self propelled vehicles over 8,000 pounds gross vehicle weight shall be permitted. He said that  
12 it is his interpretation that a self-propelled vehicle could be a semi-tractor, pick-up truck with the  
13 business name painted on the side, caterpillar, bulldozer, road grader, and a trailer for hauling  
14 equipment for the business. He said that the term vehicles is not capitalized in Paragraph 7.1.2 E  
15 because it is not being used as the defined term in the Ordinance. He said that the Ordinance has the  
16 definition of motor vehicle which is a very restrictive definition. He said that Paragraph 7.1.2.E does  
17 not use the term motor vehicle and it is not capitalized.  
18

19 Mr. Hall stated that he previously informed the Board that since 1993 three people have worked in  
20 the office under Frank DiNovo and this is how Mr. DiNovo operated. Mr. Hall said that he  
21 distributed the information from Case 794-AT-92 and in the Preliminary Memorandum he referred to  
22 four places in that attachment. He said that page 6, Line 17 of the minutes from the December 14,  
23 1992, meeting indicates the following statement from Frank DiNovo: What is now being proposed  
24 is to limit the number of self-propelled vehicles over 8,000 lbs to 3; to limit the total number of  
25 vehicles, including trailers, off-road vehicles and pick-up trucks, to 10. Mr. Hall stated that he  
26 believes that off-road vehicles is not a good phrase but he does know that staff was not concerned  
27 about dune-buggies. He said that the off-road vehicles that were being considered in 1992 were  
28 referring to equipment which was being driven off-road such as bull-dozers, road graders,  
29 excavators, etc.  
30

31 Mr. Hall stated that page 7, Line 9 of the December 14, 1992, meeting indicates that Mr. DiNovo  
32 stated that if the person is operating from the home premises, they can have 3 tractors and 7 trailers,  
33 which is consistent with having one family member as a driver and 2 employees. Mr. Hall stated that  
34 within the same paragraph there is discussion if a Special Use Mechanism was necessary and that  
35 violation of this provision would not be likely be a problem unless it became a regular occurrence  
36 and the office would probably only become aware of the violation if it was reported as a complaint.  
37 Mr. Hall stated that at the bottom of page 7, Line 40 begins a discussion between Ms. Weckel and  
38 Mr. DiNovo regarding Section E regarding the number of vehicles allowed. Mr. Hall stated that Mr.  
39 DiNovo explains that in Section E, it is proposed that there can be 3 trucks over 8,000 and up to 7  
40 more under 8,000 pounds. Mr. Hall stated that the same paragraph indicates that there was  
41 discussion of deleting 7.1.2 I (iv) which created what is before the Board tonight.  
42



1 Mr. Hall stated that what he has shown the Board with the previous hearing minutes is a discussion  
2 that is consistent with the way that he administers this portion of the Ordinance and it has been  
3 administered this way since 1993. He said that Second Division as defined in the Illinois Vehicle  
4 Code would not relate to equipment such as bulldozers and road graders that are not Second Division  
5 Vehicles but they are motorized things that people ride on that are used in Mr. Dillard's Rural Home  
6 Occupation therefore it is Mr. Hall's belief that it is reasonable to consider those things in the  
7 number of vehicles allowed on the property.

8  
9 Mr. Hall stated that if the Board is interested in viewing the types of vehicles that are in question  
10 then he would suggest that the Board review the staff photographs.

11  
12 Mr. Hall noted that Jamie Hitt, Zoning Officer sends her apologies for not being in attendance  
13 tonight but she had a vacation scheduled prior to the scheduling of the docket for this case. He said  
14 that Lori Busboom, Zoning Technician, who has been with the department since 1993, is present  
15 tonight to answer any questions. He said that the Board is aware that the Zoning Technicians are  
16 aware of the rules as well as anyone else in the department.

17  
18 Mr. Thorsland stated that it is his understanding that the Board received a letter from Mr. Dillard  
19 which was similar to Mr. Weibel's letter.

20  
21 The Board agreed that they did indeed receive Mr. Dillard's letter.

22  
23 Mr. Thorsland called Mr. Kelly Dillard to testify.

24  
25 Mr. Dillard, who resides at 700 CR 2175N, Champaign, Illinois, stated that he is not sure how to  
26 address the Board regarding this case because Mr. Hall has made the issue at hand about him rather  
27 than how staff interprets the Ordinance. Mr. Dillard said that if the case is going to be about me then  
28 we need to talk about the other 21 omissions and errors that the zoning staff has made in regards to  
29 this issue. He said that there have been mistakes and misstatements by staff and he can either go into  
30 that or just keep it to the Ordinance.

31  
32 Mr. Thorsland asked Mr. Dillard if when he talks about misstatements if he is discussing the  
33 particular paragraph that is in discussion.

34  
35 Mr. Dillard stated that some of the misstatements are in regards to the paragraph.

36  
37 Mr. Thorsland asked Mr. Dillard if he has his comments in written form which could be entered as  
38 Documents of Record.

39  
40 Mr. Dillard stated yes.

41  
42 Mr. Thorsland asked Mr. Dillard to summarize the ones that pertain to Paragraph 7.1.2.

1  
2 Mr. Dillard stated that the Rural Home Occupation handout that he received from staff indicates the  
3 following under Item D: Non-farm commercial vehicles (Second Division vehicles are defined by the  
4 Illinois Vehicle Code), used in any rural home occupation are limited to. He said the Ordinance that  
5 this speaks to says nothing about commercial vehicles therefore staff has changed the statement to  
6 include commercial vehicles. He said that there are at least four other places in the paperwork that  
7 he was given refers to commercial vehicles although, again, the Ordinance does not. He said that the  
8 Ordinance is very clear for anyone who wants to read it unless it doesn't say what they want it to say.  
9

10 Mr. Dillard stated that the letter that he sent to the Board members indicated his concerns regarding  
11 Paragraph 7.1.2 E.  
12

13 Mr. Hall noted that the Board received a copy of the Rural Home Occupation handout as well as a  
14 copy of the regulations so that the Board can compare the information within the two documents.  
15

16 Mr. Dillard stated that Mr. Hall refers to the Ordinance in Paragraphs and Subparagraph although the  
17 Ordinance is not in paragraphs but is all in one sentence. He said that he knows how to read the  
18 English language and the sentence, Non-farm, Second Division vehicles as defined by the Illinois  
19 Vehicle Code, used in any Rural Home Occupations shall be limited as follows, has a colon after it.  
20 He said that a colon, as defined in the dictionary, as a rule informs the reader that what follows the  
21 colon proves, explains or simply provides elements of what comes before the colon. He said that  
22 everything after the colon in 7.1.2 E refers to Second Division vehicles. He said that a Second  
23 Division vehicle is a motor vehicle that operates on a highway therefore the only thing that can be a  
24 Second Division vehicle has to have a motor and cannot be a trailer.  
25

26 Mr. Dillard stated that Mr. Hall stated that the Ordinance exempts personal vehicles and that they  
27 cannot be Second Division vehicles although it is very clear in the Ordinance that any pick-up truck  
28 can be a Second Division vehicle because it hauls cargo. He said that a pick-up is not taxed in the  
29 State of Illinois as a Second Division vehicle but it is considered a Second Division vehicle. He said  
30 that each portion of 7.1.2 of the Ordinance can be read with Second Division in each of its sentences.  
31 He said that since the issue is about Second Division vehicles, and Second Division vehicles are  
32 motor vehicles, the Ordinance indicates that a motor vehicle is a vehicle that operates on a highway,  
33 a licensed vehicle. He said that a licensed vehicle is not a bulldozer or a road-grader because there is  
34 nothing in the Ordinance which refers to heavy equipment because they wanted to exempt farm type  
35 equipment. Mr. Dillard stated that all of his equipment is equipment that some farmers use on their  
36 farm. He said that if the Board intends to say that a backhoe or excavator are not farm equipment  
37 then the farmers of Champaign County will have to told that they cannot have that equipment either.  
38 He said that the Ordinance is very clear and he is operating within the Ordinance as he understands  
39 it. He said that he has three Second Division vehicles which are over 8,000 pounds, two parked in  
40 his shed and one parked outside in a parking area that is 50 feet from any property line. He said that  
41 he has spent several thousands of dollars installing a tree berm around the parking area so that all of  
42 the vehicles will eventually be hidden from view. He said that the Ordinance required screening

1 therefore he planted 20 arborvitae trees around the parking area in a position that was approved by  
2 Mr. Hall. Mr. Dillard stated that the screening would take care of any outdoor storage issues and  
3 vehicle parking issues therefore he was very surprised when staff contacted him for an inspection and  
4 indicated that they were concerned about the number of vehicles that were stored inside the shop and  
5 outside. He said that he has nine vehicles outside and only one is a Second Division vehicle.  
6

7 Mr. Dillard stated that from the time that he constructed the building on his property until now every  
8 time he receives a letter from staff it has some new unexpected requirements. He said that originally  
9 he received letters regarding garbage and debris outside of the building but there was no garbage  
10 only building materials, rock piles, normal items that would be seen that a contractor might have. He  
11 said that they worked diligently to clean up what they called garbage and debris and currently there is  
12 nothing stored outside other than a few Bobcat buckets, some equipment and one Second Division  
13 vehicle. He said that they have moved all of the building materials, bricks and blocks, inside the  
14 building. He said that it was his understanding, until the time of the inspection, that the zoning  
15 department did not care what was inside the building but once the inspection was completed he was  
16 informed that the lift, forklift, Bobcat, etc. were vehicles although there is nothing in the Ordinance  
17 which discusses this type of equipment.  
18

19 Mr. Dillard stated that he is asking the Board to interpret 7.1.2 as it was written. He said that 7.1.2  
20 does not consist of four paragraphs but is only one sentence with a period at the end. He said that  
21 7.1.2 discusses Second Division vehicles only.  
22

23 Mr. Dillard stated that Mr. Hall included the minutes from a previous hearing in the mailing packet.  
24 He said that the minutes only indicate a discussion about this Ordinance. Mr. Dillard stated that a  
25 trailer, in any sense of the word, is not a motor vehicle under the *Champaign County Zoning*  
26 *Ordinance* or the Illinois Vehicle Code therefore a trailer cannot be a Second Division vehicle.  
27

28 Mr. Dillard stated that during discussions with staff it was indicated that his property is located in a  
29 residential area although his property is located in the AG-1 Zoning District therefore the area is not  
30 residential but rural. He said that the area was rural when he built his home in 1972. He said that it  
31 is true that other homes were built around his property but those houses were being built at the same  
32 time that he built his shed. He said that the area is rural in that there are corn and soybean fields  
33 surrounding the properties. He said that his property is not trashy and it is true that he has heavy  
34 equipment due to his excavation business and he indicated such in his Rural Home Occupation  
35 application.  
36

37 Mr. Dillard stated that when he applied for a Zoning Use Permit to build his shed he was told that the  
38 *American's with Disabilities Act (ADA)* applied although it does not. He said that he has a storage  
39 building and a repair shop that he works in with no retail. He said that no public customers visit the  
40 site. He said that he spent several thousands of dollars to make his building *ADA* accessible that he  
41 should not have had to spend but he did so because he was told by the zoning department that he was  
42 required to do so. He said that staff informed him that the building had to be set back 100 feet from

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1 the road which is also incorrect because the building only needs to be set back 15 feet from the road.  
2 He said that staff assumed that the east side of his building was his front yard and it is not. He said  
3 that the Ordinance indicates that when you live on a corner you can only have one front lot line and  
4 his front lot line is located on CR 2175N. He said that he brought this matter to Mr. Hall's attention  
5 and Mr. Hall informed him that he needed to decide which lot line was his front lot line and he  
6 indicated such. He said that after this matter was completed he received a letter indicating that he  
7 should not park vehicles at the east side of his building because it appeared that the east side was a  
8 front yard even though it was a side yard. He said that the letter specifically indicated that even  
9 though the east side was a side yard it was still considered a front yard.  
10

11 Mr. Dillard stated that three years and six months after the building was complete and it was  
12 assumed that everything was fine he was notified by staff that he was supposed to have the building  
13 substantially completed within 365 days. He said that each time he receives a letter from the zoning  
14 department the letter is mean spirited indicating that if he does not do what staff indicates in the  
15 letter they will send the matter to the State's Attorney for an injunction. He said that the entire time  
16 he has done nothing but accommodated staff's requests.  
17

18 Mr. Dillard stated that on September 24, 2010, he received a letter that there was garbage piled up  
19 around his property but there was no garbage anywhere on his property. He said that the garbage that  
20 was indicated in the letter was on the property to the north of his property and had nothing to do with  
21 him. He said that they cleaned up the property and it looked good. He said that the brick piles that  
22 were included in a complaint were used to trim around his building which was their intended use.  
23 He said that upon staff's request he built a berm and a parking lot although it was covered with the  
24 wrong type of material. He said that he then planted the screening to hide the re-ground asphalt  
25 because it was not considered an appropriate look for the neighborhood. He said that the area is a  
26 rural area and he uses re-ground asphalt on a weekly basis upon driveways around the County.  
27

28 Mr. Dillard stated that the Ordinance indicates that his building had to be substantially completed  
29 within 365 days and it was substantially completed long before 365 days. He said that staff's  
30 interpretation of substantial was completely done with everything as they wanted it to be but that is  
31 not what substantial means. He said that four years after he built the building this was not an issue at  
32 all but now there is a threat that he cannot operate out of the building because he doesn't have his  
33 compliance certificate and the reason why he doesn't have his compliance certificate is because he  
34 believes staff is misinterpreting 7.1.2.  
35

36 Mr. Dillard stated that he again received a letter from staff indicating that there was garbage and  
37 debris on his property although there was not.  
38

39 Mr. Dillard stated that the Rural Home Occupation application requests a list of commercial  
40 vehicles. He asked why a list of commercial vehicles is necessary because there is no mention in the  
41 Ordinance about commercial vehicles and what should be listed are Second Division vehicles.  
42

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1 Mr. Dillard stated that on May 5, 2011, he was notified that he was required to screen licensed  
2 vehicles that were located on the east side of his building. He said that there is no reason why he has  
3 to screen these vehicles because the licensed vehicles are not considered outside storage although he  
4 did move everything, other than one or two trailers, to the west side of the building. He said that up  
5 to this meeting he has done everything that staff has asked and has done his best to get through this  
6 matter but he now has a fear that since he is opposing Mr. Hall's determination that he will receive  
7 even more harassment.  
8

9 Mr. Dillard stated that on June 7, 2011, he received a letter indicating that the only violation that was  
10 unresolved was the number of vehicles on the lot. He said that the letter indicated that there were as  
11 many as 22 vehicles on his lot which is untrue. He said that he does not own 22 vehicles or 22 of  
12 anything. He said that the letter also indicated that a 20,000 pound trailer was considered a Second  
13 Division vehicle but he disagrees because obviously if it is not self-propelled it is not a Second  
14 Division vehicle. He said that in the same letter staff misquoted 7.1.2 E(2) by leaving out the text  
15 indicating that trailers and off-road vehicles shall be permitted.  
16

17 Mr. Dillard stated that the last letter that he received from staff was dated July 24, 2011, which  
18 indicated that there were 17 vehicles located on his property which was again untrue. He said that  
19 there are two vehicles on the property next door which is not his property and is not his concern. He  
20 said that his neighbor was using two pieces of his equipment, which are not vehicles, and if staff  
21 desires to count all of his equipment then they will have to go to Vermilion and Piatt counties to do  
22 so. He said that Mr. Hall has indicated that he has been on staff for twenty years therefore he should  
23 know the Ordinance inside and out and part of his job is to read and understand the English  
24 language. He said that the Ordinance is written very clearly and all you have to do is put the  
25 punctuation in the right location. He said that it is very clear that 7.1.2 is only about Second Division  
26 vehicles which is defined in the letter that he sent the Board for review.  
27

28 Mr. Dillard stated that after several thousands of dollars, which he should not have had to spend to  
29 begin with, and many sleepless nights worrying about whether or not Mr. Hall is going to shut down  
30 his business or send this matter to the State's Attorney, he is requesting that the Board apply the law  
31 as the Ordinance is written in regards to Second Division vehicles.  
32

33 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.  
34

35 Mr. Thorsland asked if staff had any questions for Mr. Dillard.  
36

37 Mr. Hall stated that he has many questions although he is not sure where he would begin therefore he  
38 will hold them for now.  
39

40 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
41 regarding this case.  
42

1 Mr. Thorsland called Ms. Melody Pinks to testify.

2  
3 Ms. Melody Pinks, who resides at 696 CR 2175N, Champaign, Illinois, stated that her property  
4 borders the Dillard property on the west side. She said that she grew up on a farm and she never saw  
5 farm equipment like Mr. Dillard's equipment. She said that her farm had cultivators, disks, manure  
6 spreaders and tractors but not bulldozers, backhoes and road graders. She said that the heavy  
7 equipment creates damage to the Hensley Township roads and there was a lot of unsightly stuff next  
8 to her lot line for several years and it was horrible to look at it every morning. She said that there  
9 was an unlicensed vehicle that said "Dig It" on the side of it which sat there for three years. She said  
10 that she was not the original person who complained to the Board and did not even know that she  
11 had that opportunity until she was informed by someone else. She said that after she filed her  
12 complaint the unlicensed vehicle was moved which is a blessing and the property does look 100%  
13 better than when the business originally started there. She said that as to the neighbor next to Mr.  
14 Dillard's property there was a lot of construction material on both properties because it appeared that  
15 they were sharing their lot lines for storage. She said that there were tires, construction materials,  
16 broken concrete and things of that nature between the two properties and it was very depressing to  
17 look at every morning. She said that many times she would sit and cry over the situation. She said  
18 that she contacted Mrs. Dillard and she indicated that she understood her complaint and at one time  
19 she had discussed the situation with her husband but he got very upset therefore she does not  
20 mention it anymore. Ms. Pinks stated that due to the unfortunate situation they are no longer on  
21 speaking terms with the Dillards. She said that all they would like the Dillards to do is to abide by  
22 the Ordinance regulations. She said that she did not realize that the Dillard property was going to be  
23 built up but numerous semi-loads of dirt were brought on to the property and now their home is in  
24 the valley in comparison to the Dillard property. She said that the building which is located on the  
25 Dillard property is much higher than the property lines. She said that when Mr. Dillard built the  
26 asphalt lot to the west of the building she did not realize that it was because he was required to move  
27 the equipment to the back. She said that where Mr. Dillard planted the eight foot arborvitae trees the  
28 tips of those trees barely gets to the tires. She said that Mr. Dillard informed Mr. Hall that the  
29 arborvitae trees are fast growing and they should be screening everything within a few years but a tag  
30 off of her arborvitae trees indicates that the growth rate is slow. She said that she has been very  
31 disappointed and has tried to speak with the Dillards about the situation and the matter only seems to  
32 gets worse. She requested the Board's assistance with this matter.

33  
34 Mr. Thorsland asked the Board if there were any questions for Ms. Pinks.

35  
36 Mr. Courson asked Ms. Pinks if the site is cleaned up.

37  
38 Ms. Pinks stated yes and it looks much better.

39  
40 Mr. Courson asked Ms. Pink to indicate what else she would like to see done on the site.

41  
42 Ms. Pinks stated that she does not like seeing the 17 pieces of equipment sitting on the property.

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1 She said that once Mr. Dillard received the letter he moved some of the pieces of equipment to a  
2 different location.

3  
4 Mr. Courson asked Ms. Pinks if her main concern right now is the equipment on the property.

5  
6 Ms. Pinks stated yes.

7  
8 Mr. Thorsland asked the Board if there were any additional questions for Ms. Pinks and there were  
9 none.

10  
11 Mr. Thorsland asked if staff had any questions for Ms. Pinks and there were none.

12  
13 Mr. Thorsland closed the witness register for tonight's meeting.

14  
15 Mr. Hall stated that he can appreciate the fact that the Board may have many questions based on Mr.  
16 Dillard's testimony. He said that he does have the case file with him tonight and the Board is  
17 welcome to review any notice that staff has sent Mr. Dillard. He requested questions from the Board  
18 because there were many statements made by Mr. Dillard that could be flushed out.

19  
20 Mr. Passalacqua stated that some of the vehicles are being described as farm vehicles but the  
21 definition of Second Division vehicles includes implements of husbandry. He said that he would  
22 categorize implements of husbandry as a backhoe and road-grader.

23  
24 Mr. Hall stated that over the past few weeks he spent a lot of time reviewing the Motor Vehicle Code  
25 and he can say that he is not expert on that code. He said that whatever the outcome of this case may  
26 be he would like to see the County strike "Second Division" vehicles and talk about "vehicles that  
27 are used in a business" because that is what is being discussed tonight. He said that there is no need  
28 to use Second Division vehicles and then make everyone decide what it means. He said that he  
29 assumes that the way that he has been enforcing this is the way that the County wants it enforced.  
30 He said that regardless of the Board's decision regarding this case the issue is what are the rules that  
31 the County wants to enforce. He said that the rules must be as clear as possible because currently  
32 they are not clear.

33  
34 Mr. Passalacqua stated that if the Board gets to the bare simplicity the RHO indicates that no more  
35 than 10 vehicles in total are allowed.

36  
37 Mr. Courson stated that 7.1.2E.ii needs to be defined more clearly because a bicycle could be  
38 considered a vehicle. He said that the definition needs to be more specific. He asked Mr. Hall if he  
39 contacted IDOT requesting the definition of a vehicle.

40  
41 Mr. Hall stated that he printed off pages and pages of definitions therefore he knows what the  
42 definitions are. He said that Mr. Dillard provided the Board the two most important definitions in

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1 his letter. He said that a Second Division vehicle can be a First Division vehicle used in the course  
2 of business but it is very clear that the author of this amendment intended it to apply to trailers. He  
3 said that the minutes from the previous hearing regarding this issue are the minutes which went to  
4 the County Board when they voted on this amendment and there is no question that the County  
5 Board wanted trailers to be part of this.  
6

7 Mr. Thorsland asked Mr. Hall if there is a definition of a vehicle in the Ordinance.  
8

9 Mr. Hall stated that the Ordinance has a definition for motor vehicle and, as the Board is aware,  
10 when defined terms are used in the Ordinance they are capitalized.  
11

12 Mr. Thorsland stated that early on Mr. Hall stated that the description of the case was more in line of  
13 what he thought 7.1.2 E should say and that he took out Second Division vehicles.  
14

15 Mr. Hall stated yes.  
16

17 Mr. Thorsland stated that case description is how Mr. Hall is interpreting it.  
18

19 Mr. Hall stated that his error is that he worked under Frank DiNovo from 1990 to 2002 and he  
20 witnessed how Mr. DiNovo interpreted what he wrote. He said that if he was a new Zoning  
21 Administrator coming in and read 7.1.2 E, he would still have questions and he might have reacted  
22 differently. He said that even a new Zoning Administrator could read the minutes of the case that  
23 went to the County Board prior to adoption of the amendment and understand that they were  
24 referring to all kinds of vehicles and not just literally Second Division vehicles. He said that he  
25 would argue that he has been speaking the English language for at least 55 years and he knows what  
26 a colon means and that most things are not that simple. He said that he believes it is fair to interpret  
27 this amendment as 10 vehicles in total that are used in the course of business.  
28

29 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall.  
30

31 Mr. Hall stated that if the Board supports his decision then there needs to be a variance or special use  
32 permit required for Mr. Dillard or a change in the total number of vehicles. He said that the total  
33 number of vehicles does not matter if they are stored in the shed or not and it doesn't matter if they  
34 are screened or not but what does matter is how many vehicles are on the property that are used in  
35 the business.  
36

37 Ms. Capel asked Mr. Hall to indicate what options are available for Mr. Dillard.  
38

39 Mr. Hall stated that Mr. Dillard could apply for a contractor's facility which is a special use in the  
40 AG-1 District.  
41

42 Mr. Hall stated that what is really at issue, regardless of all of the other testimony that the Board has



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1 heard tonight, is has this issue regarding the number of vehicles been enforced properly. He said that  
2 this interpretation is not about the *ADA* requirements or screening but again is about the number of  
3 vehicles and has it been enforced properly.  
4

5 Mr. Miller asked Mr. Hall if this was a farmstead and the equipment was tillage tools, tractors and  
6 combines then the equipment would be exempt from zoning.  
7

8 Mr. Hall stated yes.  
9

10 Mr. Courson stated that he visited the site and noticed that one house had a trailer in the driveway  
11 and some houses had debris and trash around the houses. He said that one house had an outbuilding,  
12 boat and camper and down the road there is a trucking company which had several trucks and trailers  
13 parked outdoors. He said that one of the homes in the neighborhood had a motor-grader sitting in the  
14 yard as well as a boat and another trailer. He said that almost everyone in the neighborhood has  
15 either boats or trailers parked outside. He said that he does not believe that a backhoe or road-grader  
16 is a Second Division vehicle because he cannot see that equipment being any different than someone  
17 having 10 lawnmowers in their shed for a mowing business. He said that he considers the difference  
18 for a Second Division vehicle is that it is something that can be driven on the highway. He said that  
19 many of the definitions regarding Second Division vehicles has to do with buses or semi-trailers but  
20 not a backhoe or road-grader.  
21

22 Mr. Hall asked Mr. Courson to describe off-road vehicles.  
23

24 Mr. Courson stated that he is at a loss as to what an off-road vehicle would be unless it was a quad-  
25 runner and he would not consider it to be a Second Division vehicle either. He said that he would  
26 like clarification of the definition for an off-road vehicle but he cannot see where a bulldozer would  
27 be considered as such.  
28

29 Mr. Hall asked Mr. Courson if he thinks that the Ordinance does not limit how many bulldozers  
30 someone could have at their home occupation.  
31

32 Mr. Hall noted that enforcement action has been taken against the trucking company and they are  
33 well aware of where they are supposed to be parking on the property. He said that the Second  
34 Division vehicles are required to be parked 50 feet from the lot line.  
35

36 Mr. Courson stated that the trucks and trailers appeared to be further than 50 feet from the lot line.  
37

38 Mr. Thorsland stated that he drives by the subject property everyday and he will say that the property  
39 has been greatly improved. He said that the number of vehicles seems to fluctuate and he did realize  
40 that when new homes were built to the east there would probably be conflict and unfortunately he  
41 was correct. He said that the Board has worked very diligently on other cases, such as the producing  
42 of smoked meat in the CR District, and the Board managed to find a way to satisfy everyone

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1 involved whether or not that was the course that the petitioner wanted to take to get their approval.  
2 He said that the details of the Illinois Vehicle Code may be something that this Board will work on in  
3 the future in implementing that code into the Ordinance more clearly.  
4

5 Mr. Courson stated that the definition of off-road vehicles must be clarified.  
6

7 Mr. Passalacqua stated that a pick-up cannot be considered in the same class as a backhoe.  
8

9 Mr. Courson stated that he believes that the State of Illinois only finds a trailer as a vehicle when it is  
10 hooked up to a truck but not when it is sitting alone.  
11

12 Ms. Capel stated that it appears that the other issue at hand is whether this business qualifies as a  
13 home occupation or a contractor's facility. She said that the intent of the Ordinance is clear but the  
14 semantics however confuses the issue. She said that to be consistent with the RHO 15 graders and  
15 bulldozers on a property is more than just a RHO and is a contractor's facility.  
16

17 Mr. Thorsland stated that there is a question if the business has moved from a home occupation into  
18 a contractor's facility and that question may exist due to the confusion of the definitions. He said  
19 that the Board needs to decide whether staff's interpretation of 7.1.2 E to mean 10 vehicles total and  
20 not so much the list of 17 existing vehicles on the property is truly 17 or is it 10. He said that he  
21 only counts 10 vehicles because he would argue that where he lives there are a lot of people who  
22 have a lot of equipment and trailers on their property and they have not applied for a home  
23 occupation. He asked the Board if they desired to make a final determination tonight or continue the  
24 case to a future date.  
25

26 Mr. Schroeder stated that with all of the information that has been received tonight he believes that  
27 Mr. Hall is trying to keep these types of uses under control. He said that he has seen some messes in  
28 the County that the County cannot control but for those that the County can control we must make  
29 sure that we are controlling them in the right way.  
30

31 Mr. Hall stated that if the Board upholds his decision then Mr. Dillard can apply for a variance and  
32 pursue the argument that everything is properly screened and what other issues may come up. He  
33 said that it is not like that there can absolutely be no more than 10 vehicles but if there are to be more  
34 than 10 vehicles then the owner needs to be authorized by a variance or special use permit. He said  
35 that people go through this process every two weeks of the year before this Board. He said that this  
36 is not the end of Dig It Excavation but there is one more step to go through. He said that he  
37 informed Mr. Dillard that it appears that his screening will work and he planted a different type of  
38 arborvitae than what one would normally find and if the nursery information is accurate there should  
39 be a beautiful screen there in the future. He said that if the Board does not believe that Mr. Dillard  
40 needs a variance then that is a different thing and if the Board believes that the business is fine the  
41 way it is then the issue is settled.  
42

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1 Mr. Schroeder stated that he is confused about what Mr. Dillard has done and what he should have  
2 already done or what could be done. He said that he would like information as to what Mr. Dillard  
3 must do to be in compliance with the Ordinance.  
4

5 Mr. Miller stated that it is obvious that the Board is not ready to make a final determination  
6 regarding this case at tonight's meeting.  
7

8 Mr. Passalacqua stated that the Board needs more information as to what trucks and backhoes count  
9 as under the vehicle code.  
10

11 Mr. Hall stated that he does not know how the Board is going to get any more information. He said  
12 that the Board has what the Ordinance indicates and what the County Board reviewed when they  
13 voted on the amendment. He said that it has been established that this thing is very confusing but he  
14 can appreciate that the Board needs more time.  
15

16 Mr. Thorsland stated that staff has submitted all of the information that is available for the Board to  
17 review for this case. He said that he does not believe that staff can give the Board anything further  
18 because they have provided the Board with everything that they can and in addition Mr. Dillard and  
19 Ms. Pinks have given their testimony. He said that Mr. Courson has visited the area and he drives by  
20 the property everyday therefore two Board members are aware of the property. He said that he does  
21 not believe that no course of events will be changed if the Board does not make a final determination  
22 at tonight's meeting.  
23

24 Mr. Schroeder asked Mr. Hal if he could give the Board any more direction for their determination.  
25

26 Mr. Hall stated that the Board has everything in front of them to make a determination. He said that  
27 the Board has a copy of the Ordinance and the minutes of the adoption of the amendment. He said  
28 that the Board needs to determine how they would enforce this issue and vote the way the Board  
29 feels. He said that the fact that he has been on staff for 20 years is irrelevant and if the Board  
30 believes that he is wrong then the Board owes it to him to tell him that.  
31

32 Mr. Schroeder stated that it appears that the Ordinance is pretty cut and dry.  
33

34 Mr. Hall stated that he disagrees because there is a lot of room in the Ordinance for disagreement.  
35 He said that he may be putting too much emphasis on the minutes but that is why minutes are sent to  
36 the County Board, which is to see the ZBA's discussion.  
37

38 Mr. Schroeder asked Mr. Hall if he feels that the Board has discussed this issue enough to make a  
39 decision or does he believe that the Board is just pussy-footing around.  
40

41 Mr. Hall stated that he sees this Board reacting the way it normally reacts when it has a difficult  
42 decision in front of them. He said that it is reasonable for the Board to make sure that they are

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1 comfortable with their decision but he cannot bring back any further information that would  
2 enlighten the Board any further. He said that the County could hire a consultant to interpret the  
3 Illinois Vehicle Code but he does not believe that is the issue although the Board may. He said that  
4 he would like to stay away from the Illinois Vehicle Code because it is very complicated.  
5

6 Mr. Passalacqua stated that the original application for the RHO, which Mr. Hall approved, it  
7 describes three commercial vehicles and then describes 9 more at the bottom.  
8

9 Mr. Hall stated that when the application was approved it was his opinion that there were 10 vehicles  
10 involved in the business. He said that under Item #8 of the application there were three commercial  
11 vehicles listed and at the time of approval the four trailers were not listed. He said that listed at the  
12 bottom, per a phone call to Kelly Dillard on April 24, 2007, by Jamie Hitt the following equipment is  
13 listed: Bobcat, backhoe, grader, tractor, 2-excavator, small excavator, trencher, etc. He said that  
14 when the application was approved he counted nine vehicles in total and he did not count small  
15 excavating equipment. He said that in error he did overlook the Cat311 which would make the total  
16 10 but it does state that the large excavator would never be stored on the property. He said that at the  
17 time he believed that the home occupation was in conformance with the Ordinance.  
18

19 Mr. Passalacqua stated that Item #11 of the application indicates text which was stricken which  
20 stated that nothing will be stored outside.  
21

22 Mr. Hall stated yes, but subsequently Mr. Dillard did decide to store things outside.  
23

24 Mr. Thorsland stated that if the Board does not desire to make a final determination tonight then a  
25 continuance date must be determined. He said that the docket is very full until October 13<sup>th</sup>, which is  
26 beyond the 100-day limit for a continuance.  
27

28 **Mr. Courson moved, seconded by Mr. Passalacqua to suspend the 100-day limit for a**  
29 **continuance for Case 695-I-11. The motion carried by voice vote.**  
30

31 **Mr. Courson moved, seconded by Mr. Schroeder to continue Case 695-I-11 to the October 13,**  
32 **2011, meeting. The motion carried by voice vote.**  
33

34 Mr. Courson asked Mr. Hall if staff presented the applicant with other options.  
35

36 Mr. Hall stated yes, staff presented the applicant with other options several times.  
37

38 Mr. Passalacqua asked Mr. Hall what would be involved in making the business a contractor's  
39 facility and would it be very prohibitive.  
40

41 Mr. Hall stated that such a decision will be up to the Board because there are no standard conditions  
42 for a contractor's facility.

1  
2 Mr. Thorsland stated that at this time the Board will take a five minute recess.  
3

4 **The Board recessed at 9:07 p.m.**

5 **The Board resumed at 9:16 p.m.**  
6

7 Mr. Thorsland stated that the Board will now hear Continued Case 685-AT-11. Zoning  
8 Administrator.  
9

10 **7. Staff Report**

11 Mr. Hall stated that August 25<sup>th</sup> is the first meeting date for the special use hearing for the proposed  
12 wind farm. He said that the legal advertisements were sent in today for publication. He said that  
13 there are four hearings scheduled for the wind farm case therefore he is not sure what the Board's  
14 September is shaping up to be but it is real, here and moving.  
15

16 He thanked Connie Berry and Lori Busboom for the assistance over the past two weeks because for  
17 the past two weeks they have worked almost entirely on the wind farm. He said that Connie and Lori  
18 are Zoning Technicians and not planners but they have been doing an admirable job and the legal  
19 advertisements would not have been sent today if it were not for them. He said that when a County  
20 has zoning it is required to submit a legal advertisement which is accurate for what is met and what  
21 is not met therefore all of the work has to be done before sending in the legal and luckily we were  
22 able to meet that high standard.  
23

24 Mr. Thorsland noted that the Board should review the docket and make the necessary adjustments to  
25 their schedule so that a full Board can be in attendance.  
26

27 Mr. Hall stated that as part of the RPC's services to their member agencies, Champaign County  
28 being one of those agencies, has arranged for a Planning and Zoning Institute on Wednesday,  
29 September 14<sup>th</sup>, with a buffet dinner by Minneci's and a presentation starting at 6:00 p.m. He  
30 said that there is no charge for the buffet dinner or the presentation and hopefully the County's  
31 ZBA will be in attendance. He said that the plan commissions for the cities of Urbana and  
32 Champaign and the Villages of Mahomet and St. Joseph are invited. He said that this is an  
33 unusual event because these institutes do not occur often. He said that Michael Blue, FAICP,  
34 Director of Community Development for the City of Highland Park, Illinois and currently the  
35 Planning Officials Development Officer for the Illinois Chapter of the APA will be a speaker at  
36 the 2.5 hour workshop as well as City of Champaign Attorney Joe Hooker.  
37

38 **8. Other Business**

39 **A. Proposed ZBA Bylaws Amendments**

40 Mr. Hall stated the State's Attorney has reviewed the ZBA Bylaws therefore if there are no further  
41 questions the Board will make a final determination at the August 11<sup>th</sup> meeting. He said that there is  
42 plenty of time for the Bylaws to be adopted prior to the wind farm hearings therefore if the Board

1 **Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development**  
2 **undertaking and provide a copy of the ISHPA response; (7) require that for any proposed**  
3 **RRO that the petitioner shall contact the Endangered Species Program of the Illinois**  
4 **Department of Natural Resources and provide a copy of the agency response.**  
5

6 Mr. Hall stated that there are no updates for Case 685-AT-11. He said that he is still trying to  
7 recover from the wind farm cases and a lot of non-zoning case work has been occupying a lot of his  
8 time. He requested that Case 685-AT-11 be continued to the proposed January 12, 2012, meeting.  
9 He said that if Case 691-S-11 takes up a lot of the meeting time then the Board could continue Case  
10 685-AT-11 to a later date. He said that he is confident that he can have documentation for the  
11 Board's review by January 12, 2012.  
12

13 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the proposed January 12, 2012,  
14 meeting.  
15

16 **Mr. Palmgren moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the**  
17 **proposed January 12, 2012, meeting. The motion carried by voice vote.**  
18  
19

20 **Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of**  
21 **paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as**  
22 **follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,**  
23 **transport, or move people, property or material either on road or primarily off road; or a**  
24 **piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm**  
25 **vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross**  
26 **vehicle weight, including trailers and off-road vehicles but excluding patron or employee**  
27 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**  
28 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**  
29 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**  
30 **shed at 700 County Road 2175N, Champaign.**  
31

32 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the  
33 witness register. He reminded the audience that when they sign the witness register they are  
34 signing an oath.  
35

36 Mr. Thorsland asked the petitioner if they desired to make a statement outlining the nature of the  
37 request.  
38

39 Mr. Hall stated that interpretation cases do not have a Summary of Evidence, Finding of Fact and  
40 Final Determination. He said that any previous interpretation cases have been determined by the  
41 Board as documented in the minutes of the meeting. He said that he hopes that the Board can take

1 action on this case tonight. He encouraged the Board and whoever makes the final motion, that if  
2 they believe that the minutes of the previous meetings and tonight's meeting adequately provide all  
3 of the information necessary and the Board just wants to approve or deny it then that is all the Board  
4 has to do. He said that to the extent that there may be some information or evidence that was  
5 especially compelling since there is no written finding the Board may want to mention that  
6 information or evidence but the Board is certainly not obligated to.  
7

8 Mr. Hall read the Supplemental Memorandum dated December 15, 2011, as follows:

9 The minutes of the July 28, 2011, public hearing demonstrate that at that time the Board  
10 agreed that the phrase "off road vehicles" was not defined and therefore it was not clear what  
11 the Ordinance actually required.  
12

13 Mr. Hall said that he had no doubts about the meaning of 7.1.2E. because he simply followed  
14 the same course of action that had been followed since that amendment was added to the  
15 Ordinance in 1993. He said that if he had been confused he could have referred to the same  
16 minutes of adoption that were attached to the Preliminary Memorandum. He said that he  
17 believes that those minutes support the actions that he has taken in this case.  
18

19 Mr. Hall said that he believes that in light of the confusion in the Zoning Ordinance his  
20 actions have been reasonable and appropriate including the decision to bring this issue to the  
21 Board as an interpretation case rather than make Mr. Dillard pay the \$200 fee for an appeal  
22 case.  
23

24 Mr. Hall stated that it is now clear that the Zoning Ordinance needs to be amended so as to  
25 remove the confusion about what should be required by paragraph 7.1.2E. He said that he  
26 has added a new text amendment Case 704-AT-11 to the docket and will seek guidance from  
27 the County Board in January 2012, however this case requires the Board to make a ruling on  
28 the appropriateness of his actions regarding the Dillard property.  
29

30 Mr. Hall said that this zoning case is unrelated to any other issue but there have been  
31 allegations that his actions and the actions of the Department have resulted in Mr. Dillard  
32 incurring costs for Zoning Ordinance compliance that should not have occurred. He said that  
33 he can assure the Board that his actions and the actions of the Department have not caused  
34 Mr. Dillard to incur any unreasonable costs.  
35

36 Mr. Hall read the Zoning Board Alternatives as indicated in the Supplemental Memorandum dated  
37 December 15, 2011. He said that the alternatives for the Zoning Board of Appeals in this case  
38 include the following:  
39

40 **Uphold the Zoning Administrator's interpretation of 7.1.2E.** If the Board believes that  
41 Mr. Hall's interpretation of the Ordinance was reasonable it may uphold his interpretation.

1 In upholding Mr. Hall's interpretation the Board will not be ruling on anything related to the  
 2 Illinois Vehicle Code but simply whether his interpretation of this confusing part of the  
 3 Ordinance was reasonable and appropriate. If the Board upholds his interpretation any  
 4 further action against Mr. Dillard's property will be halted because it is now clear that  
 5 paragraph 7.1.2E of the Zoning Ordinance needs to be amended and it would be  
 6 unreasonable to proceed with action against the Dillard property until paragraph 7.1.2E. is  
 7 clarified. If the Ordinance that is eventually adopted in Case 704-AT-11 does limit the  
 8 numbers of equipment in an RHO in the same way that it limits vehicles the Mr. Dillard will  
 9 have to decide whether to seek a variance for the RHO or a special use permit as a  
 10 contractor's facility and that will lead to another zoning case but enforcement will be stayed  
 11 until the outcome of that case.  
 12

13 **Find in favor of Mr. Dillard.** If the Board believes that Mr. Hall's interpretation of the  
 14 Ordinance was unreasonable it may find in favor of Mr. Dillard. He said that finding in favor  
 15 of Mr. Dillard will result in a Zoning Compliance Certificate being issued. Mr. Hall said that  
 16 even if the Board finds in favor of Mr. Dillard he will still seek direction from the County  
 17 Board regarding a text amendment of paragraph 7.1.2E of the Zoning Ordinance. He said  
 18 that if the Ordinance that is eventually adopted by the County Board limits the numbers of  
 19 equipment in an RHO in the same way that it limits vehicles then Mr. Dillard's current  
 20 equipment would be nonconforming and allowed to remain in these numbers but not  
 21 increase. He said that at this time I assume that nonconforming right would also apply to  
 22 future replacement equipment.  
 23

24 Mr. Hall stated that he wants to make it clear that if the Board finds in favor of Mr. Dillard then they  
 25 are deciding that the numbers of equipment that Mr. Dillard has is in keeping with a reasonable  
 26 interpretation of the Ordinance and that would make them nonconforming in the event that the  
 27 Ordinance is amended. He said that if the Board finds in favor of the Zoning Administrator that it  
 28 was a reasonable interpretation then Mr. Dillard will continue on about his way until Case 704-AT-  
 29 11 is resolved. Mr. Hall stated that the earliest date that Case 704-AT-11 can be resolved will  
 30 probably be in August of 2012, because it takes that much time to get direction from the County  
 31 Board, place the legal advertisement for the public hearing, send it back to the County Board, await  
 32 municipal protest and then determine the outcome. He said that he would not expect Case 704-AT-  
 33 11 to be a controversial case but one never knows and the only thing that he would seek direction  
 34 from the County Board on in Case 704-AT-11 is the limit on vehicles in 7.1.2.E. He said that at this  
 35 time there are no other issues that he needs County Board guidance for but he cannot rule out  
 36 something being brought up at the County Board. He said that as far as he is concerned getting this  
 37 issue clarified is probably the most pressing text amendment that the Board has. He said that it is  
 38 astounding how unclear 7.1.2.E. is and it would be best to get that resolved.  
 39

40 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.  
 41



1 Mr. Thorsland called Mr. Kelly Dillard to testify.  
2

3 Mr. Kelly Dillard, who resides at 700 CR 2175N, Champaign, stated that he does not believe that the  
4 Zoning Ordinance is hard to understand because the syntax is perfectly easy for him to understand.  
5 He said that the Zoning Ordinance only refers to non-farm, Second Division vehicles. He said that  
6 he reviewed the last meeting's minutes and Mr. Hall indicated that he did not want to discuss  
7 anything about Second Division vehicles because it was too confusing. Mr. Dillard stated that it is  
8 not confusing at all and each Board member had a copy of the definition of a Second Division motor  
9 vehicle to review. He said that he found it odd that Mr. Hall continues to indicate that this issue is  
10 hard to understand and yet his request is written in the same syntax that the Ordinance was written  
11 in. Mr. Dillard stated that everything in Mr. Hall's request refers back to the first paragraph of  
12 7.1.2.E. He said that it is very simple to look at 7.1.2.E and see that each item refers back to non-  
13 farm, Second Division vehicles and also motor vehicles. He said that the only way that 7.1.2.E  
14 would be hard to understand is if it does not say what you want it to say. He said that this is not  
15 about what Mr. Hall wants it to say but what it does say which is the letter of the law.  
16

17 Mr. Dillard stated that one of the things that he found disconcerting at the last meeting was that this  
18 is obviously an issue of disagreement between himself and Mr. Hall. He said that during the Board's  
19 discussion, after testimony, Mr. Hall was part of that discussion and Mr. Dillard had no ability to  
20 rebut what Mr. Hall said during that discussion, even if it was incorrect information. Mr. Dillard  
21 stated that everyone received a copy of Mr. DiNovo's memorandum with ZBA minutes attached  
22 which discussed the Ordinance. Mr. Dillard stated that no one received minutes from the County  
23 Board which discussed the Ordinance but it is obvious that during the amendment process that the  
24 County Board did not agree with Mr. DiNovo then and they changed the Ordinance to be what it is  
25 today. He said that the current Ordinance is not as far reaching as the Zoning Department would  
26 like it to be because it only deals with second division motor vehicles. He said that whatever the  
27 Board's decision is tonight there is no such thing as a vehicle that is a farm vehicle for a farmer and  
28 not a farm vehicle for him. He said that if the Board chooses to rule that a backhoe is a vehicle that  
29 is included in this then that ruling will have a far reaching affect on all of the farmers that have  
30 backhoes, bobcats and bulldozers of their own.  
31

32 Mr. Dillard stated that the minutes from the last meeting indicate that Mr. Thorsland noted that Mr.  
33 Hall stated the description of the case was more in line of what he thought 7.1.2.E should say and  
34 that he took out Second Division vehicles and Mr. Hall indicated that Mr. Thorsland was correct.  
35 Mr. Dillard stated that it is a little hard to take out Second Division vehicles when that is what the  
36 entire Ordinance is about.  
37

38 Mr. Dillard stated that Mr. Hall indicated in the new memorandum that staff did not cause Mr.  
39 Dillard any undue costs because of the way that he has enforced this issue. Mr. Dillard stated that  
40 Mr. Hall is not qualified to make such a statement because staff has cost Mr. Dillard a lot of money  
41 in trying to take care of things that he should not have had to take care of.

1

2 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.

3

4 Mr. Thorsland asked if staff had any questions for Mr. Dillard.

5

6 Mr. Hall asked Mr. Dillard to indicate what things staff required him to do that the Ordinance does  
7 not require.

8

9 Mr. Dillard stated that all of the outdoor storage, the trees and extra parking lot was not for anything  
10 but the heavy equipment which is not covered in any section of the Ordinance at all.

11

12 Mr. Hall asked Mr. Dillard if he believes that outdoor storage does not need to be screened under the  
13 Ordinance.

14

15 Mr. Dillard stated that he wouldn't because heavy equipment is not outdoor storage.

16

17 Mr. Hall stated that is not covered by paragraph 7.1.2.E.

18

19 Mr. Dillard stated that it isn't covered under any of the Ordinance.

20

21 Mr. Courson stated that paragraph 7.1.2.I.(i) indicates the following: outdoor storage of any number  
22 of unlicensed vehicles or more than two licensed vehicles awaiting automobile or truck repair is  
23 prohibited.

24

25 Mr. Dillard stated Mr. Courson is correct because the Ordinance is all one sentence and indicates that  
26 non-farm, Second Division vehicles as defined by the Illinois Vehicle Code, and used in any RHO  
27 shall be limited as follow and the three items after this statement all refer to Second Division  
28 vehicles. He said that all three items which follow Mr. Hall's request refer to the initial part of the  
29 request.

30

31 Mr. Courson stated that Mr. Dillard is correct but paragraph 7.1.2.I. indicates prohibited Rural Home  
32 Occupation activities shall include outdoor storage of any number of unlicensed vehicles.

33

34 Mr. Dillard stated that paragraph 7.1.2.I. is part of the same sentence as the first part because this is  
35 all one sentence beginning at 7.1.2.E. Non-farm, Second Division vehicles as defined.

36

37 Mr. Courson stated that the beginning of 7.1.2 indicates Rural Home Occupations and does not  
38 discuss Second Division vehicles until 7.1.2.E.

39

40 Mr. Dillard stated that Mr. Courson is correct.

41

1 Mr. Courson stated that paragraph 7.1.2.I. deals with 7.1.2. which has nothing to do with Second  
2 Division vehicles except for paragraph 7.1.2. E.

3  
4 Mr. Dillard stated that he thought Mr. Courson was discussing paragraph 7.1.2.E.(i) and not  
5 paragraph 7.1.2.I.

6  
7 Mr. Hall stated that paragraph 7.1.2.K on page 7-4 of the Zoning Ordinance indicates that outdoor  
8 STORAGE shall be limited to SIDE YARDS or to the REAR YARD and screened as provided in  
9 Section 7.6. He said that outdoor STORAGE is capitalized because it is a defined word. He said  
10 that STORAGE is defined as the presence of equipment, or raw materials or finished goods  
11 (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and  
12 excluding the parking of operable vehicles. Mr. Hall stated that the items in question are equipment  
13 therefore keeping them outside is indeed outdoor storage and outdoor storage and/or outdoor  
14 operation screening requirements are indicated in Section 7.6 on page 7-16 of the Zoning Ordinance.  
15 He said that a Type-D Screen is an eight foot screen.

16  
17 Mr. Dillard asked Mr. Hall if he indicated that in regards to storage that operable vehicles are  
18 excluded.

19  
20 Mr. Hall stated that operable vehicles are not considered storage but are just parked.

21  
22 Mr. Dillard stated that if the heavy equipment is considered an operable vehicle then it too is  
23 excluded.

24  
25 Mr. Hall stated that it is excluded from the definition of outdoor storage but there are other  
26 requirements in the Ordinance that require them to be screened depending on where they are located.

27  
28 Mr. Dillard stated that the only thing that he is interested in is paragraph 7.1.2.E and does it only  
29 refer to non-farm, Second Division vehicles.

30  
31 Mr. Passalacqua stated that he does not know if the Board can only rule on 7.1.2.E because we are  
32 talking about outdoor storage of these vehicles which makes 7.1.2.I apply.

33  
34 Mr. Dillard stated that the issue at hand is the number of vehicles and there is nowhere else in the  
35 Ordinance that indicates a number of vehicles allowed. He said that the thing that will either rule in  
36 his favor or Mr. Hall's favor is does the number of allowed vehicles apply to Second Division  
37 vehicles.

38  
39 Mr. Hall stated that what is issue is that given the plain language in paragraph 7.1.2.E were his  
40 actions appropriate. He said that the Board determined on July 28, 2011, that paragraph 7.1.2.E is  
41 unclear. He said that given that unclarity and a neighbor who is complaining which way should

1 he error, he said that he decided to error with the neighbor however he was willing to bring this issue  
2 before the Board as an interpretation rather than making Mr. Dillard apply for an appeal. He said  
3 that he could have brought it before the Board as an interpretation case when the issue first came up  
4 but during his seventeen years of experience this is the procedure that had been exercised and this is  
5 the first time someone disagreed. He said that if he brought everything before the Board when  
6 someone disagreed the Board would never get cases done for people who paid the fee to obtain the  
7 Board's decision. He said that as the Zoning Administrator he is to exercise his judgment when  
8 necessary and that is what he did with this case. He said that he would appreciate a decision from  
9 this Board on this issue when the Board is ready.

10  
11 Mr. Dillard stated that the only person that has ever said that paragraph 7.1.2.E is unclear is Mr. Hall  
12 because it is not unclear to Mr. Dillard at all. He said that the Board has not ruled that paragraph  
13 7.1.2.E is unclear.

14  
15 Ms. Capel stated that the literal interpretation of the words is not in keeping with the intent of the  
16 Ordinance. She said that Mr. Hall interpreted the Ordinance with the intent of the Ordinance as a  
17 guide and Mr. Dillard is using the literal words to justify his position which basically is not in  
18 keeping with the intent of the Ordinance.

19  
20 Mr. Passalacqua stated that the page 21 of the approved July 28, 2011, minutes indicate that the  
21 Board agreed that there needs to be a more specific definition.

22  
23 Mr. Dillard stated that he has always been under the impression that a law is to be enforced under the  
24 letter of the law and if it is wrong then the letter of the law should be changed. He said that there is  
25 nothing that indicates what the County Board's intent was and only what Mr. DiNovo's intent was  
26 and that is not who made the Ordinance. He said that the County Board made the Ordinance. He  
27 said that he does not know where to obtain the County Board minutes to indicate what the County  
28 Board said about this issue but obviously it was different than what Mr. DiNovo wanted it to be. He  
29 said that the County Board's intent was different than what has been done with the Ordinance since  
30 1993.

31  
32 Mr. Hall asked Mr. Dillard if he read the memorandum dated February 9, 1993, from Mr. DiNovo to  
33 the County Board.

34  
35 Mr. Dillard stated that he did read Mr. DiNovo's memorandum but it is not the County Board  
36 minutes.

37  
38 Mr. Hall stated that Mr. DiNovo's memorandum is the memorandum on which the County Board  
39 took action and there are minutes attached from the ZBA. He said that Mr. Dillard is correct in  
40 indicating that the Board does not have County Board minutes to review but there have never been  
41 County Board minutes ever provided during the history of Champaign County that actually put down

1 substantive discussions. He said that to claim that the County Board minutes indicate one thing or  
2 another is not helpful. He said that all staff knows is that Mr. DiNovo's memorandum is the  
3 document that the County Board reviewed prior to adopting the Ordinance.  
4

5 Mr. Dillard stated that the County Board adopted a different Ordinance than what Mr. DiNovo asked  
6 them to adopt.  
7

8 Mr. Hall stated that this is the final version that went to the County Board that was adopted. He said  
9 that the Ordinance was changed previously in 1992 but the Ordinance was adopted in 1993.  
10

11 Mr. Dillard stated that he realizes that the Ordinance was changed previously but the request in the  
12 memorandum from Mr. DiNovo, which included minutes, is not what was adopted.  
13

14 Mr. Hall reaffirmed to the Board that what is at issue is given the admitted and agreed to confusion  
15 in the Ordinance, were his actions appropriate.  
16

17 Mr. Dillard stated that his request before the Board is whether the Ordinance only applies to non-  
18 farm, Second Division vehicles.  
19

20 Mr. Hall stated that Mr. Dillard has not paid a fee therefore he has no request before the Board. He  
21 said that the request is from the Zoning Administrator.  
22

23 Mr. Thorsland stated that page 7-3 of the Zoning Ordinance indicates paragraph 7.1.2.E as follows:  
24 Non-farm, Second Division vehicles are defined by the Illinois Vehicle Code, used in any  
25 Rural Home Occupation shall be limited as follows:

- 26 i. no more than three self propelled vehicles over 8,000 lbs. gross vehicle weight shall  
27 be permitted;
- 28 ii. no more than 10 vehicles in total, including vehicles under 8,000 lbs. gross vehicle  
29 weight, trailers and off-road vehicle shall be permitted excluding patron or employee  
30 personal vehicles;
- 31 iii. all Second Division vehicles shall be stored indoors or parked no less than 50 feet  
32 from any lot line and no less than 100 feet from any off-site existing dwelling  
33 conforming as to use.  
34

35 Mr. Thorsland stated that the July 22, 2011, Preliminary Memorandum includes Mr. Dillard's  
36 approved Zoning Use Permit, which is 73-07-01RHO, and the Special Conditions for 73-07-01RHO.  
37 He said that Special Condition #2 clearly states that the limit of 10 non-personal vehicles also applies  
38 to vehicles not intended for road use such as a trencher, an excavator, a backhoe, a bobcat, etc. He  
39 said that there is also a list of the 17 vehicles that were present on the subject property on June 22,  
40 2011, and 17 vehicles is more than the 10 allowed. He said that he would argue that all 17 of the  
41 vehicles listed may not count. He said that what is implicit is that at the time of the issuance of 73-

1 07-01RHO, Mr. Dillard agreed to the Ordinance.  
2

3 Mr. Thorsland stated that he has an RHO on his property and he farms therefore he may have more  
4 than 10 vehicles on his property but his combine doesn't do anything other than harvest his corn and  
5 beans. He said that he understands Mr. Dillard's position and he understands that it is staff's job to  
6 take what the County has and deal with it. He said that presently he is leaning towards Alternative  
7 #1 which is to uphold Mr. Hall's interpretation because the problem comes from the Second Division  
8 definition included in the Illinois Vehicle Code, which is not something that the County produced.  
9 He said that the County does have an Ordinance which indicates a limit of 10 vehicles in total and  
10 that is something that the Board can address in Case 704-AT-11. He said that the new memorandum  
11 dated December 15, 2011, from Mr. Hall spells out the Board's two alternatives for tonight and  
12 neither one has an immediate effect on Mr. Dillard's operation. He said that it may be a good  
13 opportunity to finish the interpretation case for Mr. Hall and let it move forward and get 704-AT-11  
14 in the works to get this issue resolved. He said that depending upon the outcome it is Mr. Dillard's  
15 option to either come back with a different application or not increase the number of nonconforming  
16 equipment. He said that Mr. Dillard could replace his existing equipment but his use would be  
17 nonconforming. He said that the real task at hand is that the Board needs to decide tonight if Mr.  
18 Hall's interpretation is reasonable. He said that he is leaning towards determining that Mr. Hall's  
19 interpretation is a reasonable interpretation of the limited tool that is before the Board. He said that  
20 he understands Mr. Dillard's position completely because Second Division vehicles are indicated in  
21 the Ordinance. He said that he read Mr. DiNovo's memorandum again and that is what the County  
22 Board received in order to make their determination. He said that Mr. Hall pointed out that the  
23 County Board minutes are more of an outline rather than word for word. He said that the ZBA  
24 minutes are more detailed and they do reflect the actual discussion.  
25

26 Mr. Thorsland asked Mr. Dillard if he had any further comments.  
27

28 Mr. Dillard stated that he does not have 10 Second Division vehicles.  
29

30 Mr. Thorsland stated yes, but a condition of Mr. Dillard's permit indicated a limit of 10 non-personal  
31 vehicles.  
32

33 Mr. Dillard stated that the limit is 10 non-personal motor vehicles.  
34

35 Mr. Thorsland stated that he owns a trencher, he uses it for farming, but he does own a trencher.  
36

37 Mr. Dillard stated that part of the problem is that Mr. Hall is counting the trailers yet the Ordinance  
38 specifically states that trailers are permitted.  
39

40 Mr. Thorsland stated that he drives past Mr. Dillard's property every day and as far as he is  
41 concerned the property looks normal. He said that the Ordinance needs to be fixed to include a

1 better set of definitions for Mr. Dillard, Mr. Hall and the future ZBA. He said that he appreciates  
2 that Mr. Dillard and Mr. Hall brought this issue before the Board so that it can be worked out to  
3 avoid future disagreements. He said that staff and the Board had given Mr. Dillard the benefit of not  
4 having to pay a fee to clarify this manner. He said that regardless of the outcome of the Board's  
5 ruling or Case 704-AT-11, his operation will not stop.  
6

7 Mr. Dillard stated that he has a reasonable place located in the country and he does not have an  
8 unreasonable amount of anything. He said that the Ordinance is what it is currently and what it is  
9 going to be amended to in the future is unknown. He requested that the Board rule in his favor and  
10 when the Ordinance changes staff should administer the Ordinance as it changes.  
11

12 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.  
13

14 Mr. Thorsland asked if staff had any questions for Mr. Dillard and there were none.  
15

16 Mr. Thorsland stated that the Board can rule Mr. Hall's interpretation as a reasonable or  
17 unreasonable interpretation by ruling with one of the Zoning Board alternatives included in Mr.  
18 Hall's December 15, 2011, memorandum. Mr. Thorsland stated that he would prefer that the ruling  
19 be accompanied by an explanation as to why the Board ruled as it did tonight.  
20

21 Mr. Thorsland stated that he believes that Mr. Hall's interpretation is a reasonable interpretation as  
22 indicated in Alternative #1. He said that he would argue that some of the vehicles do not count but  
23 as far as an interpretation of the Ordinance, without looking at the specific definition for vehicles, the  
24 RHO is limited to 10 non-farm vehicles in total.  
25

26 Mr. Courson stated that Alternative #1 is too vague because it is not specific as to motorized or non-  
27 motorized vehicles. He asked Mr. Hall if he would consider a wheel barrow to be a non-motorized  
28 vehicle.  
29

30 Mr. Hall asked Mr. Courson to restate his question.  
31

32 Mr. Courson stated that the definition of a vehicle is not consistent in the Ordinance. He said that  
33 the definition of a vehicle as stated in the Ordinance could be a two-wheeled cart, wheel barrow,  
34 lawnmower, etc. He asked Mr. Hall if he feels that a wheel barrow is a vehicle.  
35

36 Mr. Hall stated no and he is sorry that Mr. Courson felt like he needed to ask him that question. He  
37 said that he does not believe that a wheel barrow is a vehicle and he has not made an issue of wheel  
38 barrows on Mr. Dillard's property.  
39

40 Mr. Courson stated that he is not concerned about Mr. Dillard's property at this time but according to  
41 the definition a wheel barrow would qualify because the definition is vague. He said that someone

1 could throw hundreds of different things in the definition that would not be considered a vehicle.

2  
3 Mr. Hall stated that Mr. Courson was one Board member who agreed that in the Ordinance an off-  
4 road vehicle was not defined therefore he did not know what to do with it.

5  
6 Mr. Courson stated that he still has not been able to discover what classifies as a Second Division  
7 vehicle.

8  
9 Mr. Hall stated that he understands what classifies as a Second Division but what he did with off-  
10 road vehicles is what is described here in this interpretation. He said that what (1), (2), and (3) are  
11 his attempt to indicate what he thought and that would include a bicycle or wheel barrow and  
12 perhaps that did not obtain enough review and he will apologize for that but that is not what is at  
13 issue. He said that what is at issue is that paragraph 7.1.2.E includes a phrase which makes it  
14 unclear.

15  
16 Mr. Courson stated that he will agree that paragraph 7.1.2.E is unclear.

17  
18 Mr. Thorsland stated that a reasonable person would not consider a bicycle or wheel barrow as  
19 something that this Ordinance is covering. He said that he did not believe at any time that anything  
20 smaller than a tractor would be included and he did not even consider that a lawnmower would be  
21 counted.

22  
23 Mr. Courson stated that if the Board is going to use this as a legal definition then it must be clear.

24  
25 Mr. Hall stated that we are not using it as a legal definition.

26  
27 Mr. Passalacqua stated that as it pertains to the case at hand regarding the language of paragraph  
28 7.1.2.E(2) which includes trailers and off-road vehicles but excluding patron or employee vehicles  
29 then he would agree to the Zoning Administrator's interpretation and he would also note that the  
30 Zoning Administrator has made every attempt to make this as easy as possible by not ensuing the  
31 \$200 fee from Mr. Dillard for an appeal case. He noted that the Zoning Administrator is  
32 accommodating Mr. Dillard at this time by not ensuing the appeal case and simply getting through  
33 this hoop so that the Board can move on to the next one.

34  
35 Mr. Thorsland asked Mr. Passalacqua if he would like to make a motion. He said that much care  
36 was taken to prevent as much impact as possible to Mr. Dillard's current operation for his Rural  
37 Home Occupation.

38  
39 **Mr. Passalacqua moved, seconded by Ms. Capel to uphold the Zoning Administrator's**  
40 **interpretation of 7.1.2.E.**



1 The roll was called:

3	<b>Courson-no</b>	<b>Miller-absent</b>	<b>Palmgren-yes</b>
4	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Thorsland-yes</b>

6 Mr. Hall thanked the Board. He said that the Board’s decision upholds the Zoning Administrator’s interpretation of 7.1.2.E. and staff will proceed as outlined in the Supplemental Memorandum dated December 15, 2011. He informed Mr. Dillard that if he has any questions he should feel free to call the office to speak with staff. He said that staff will keep Mr. Dillard informed of the progress in getting direction by the County Board and staff will notify as to when the public hearing will begin. He said that Mr. Dillard will be copied any memorandums that will come before the Board for Case 704-AT-11.

14 Mr. Hall thanked Mr. Dillard.

16 **6. New Public Hearings**

18 **Case 681-S-11 Petitioner: Kopmann Cemetery Request to authorize an expansion of a nonconforming cemetery with waivers (variances) in related Case 682-V-11 in the AG-1 Zoning District. Location: A 4.45 acre tract in the Southwest Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**

24 **682-V-11 Petitioner: Kopmann Cemetery Request to authorize the following in the AG-1 District: A. Variance of setbacks for existing headstones along CR 2400E with a setback of 33 Feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet; and B. Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet; and C. Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland; and D. Waiver (variance) of standard conditions for a lot area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of 33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard setback of 15 feet in lieu of the required 50 feet; and a rear yard setback of 25 feet in lieu of the required 50 feet. Location: A 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**

39 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called

**Attachment C: Proposed Amendment to Paragraph 7.1.2 E.**  
FEBRUARY 1, 2012

**1. Revise existing paragraph 7.1.2E. to read as follows:**

(Note: Existing words to be deleted are indicated in strike out and new words to be added are underlined.)

E. ~~Non-farm, Second Division vehicles as defined by the Illinois Vehicle Code~~  
MOTOR VEHICLES and equipment used in any RURAL HOME  
OCCUPATION shall be limited as follows:

- (1) The number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph.
  
- (2) The number of complete pieces of equipment that are motorized or non-motorized and used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph. Complete pieces of equipment shall include, but not be limited to, bucket loaders, road graders, bulldozers, trenchers, backhoes, riding lawn mowers, devices mounted on trailers, and any agricultural equipment used for non-agricultural uses. Equipment does not include hand tools or bench tools or tools mounted on a table or wheel barrows or similar tools.
  
- ~~i.~~(3) No more than three ~~vehicles~~ MOTOR VEHICLES and licensed trailers over ~~8,000~~ 15,000 lbs. pounds gross weight ~~each~~ or three complete pieces of self-propelled equipment over 15,000 pounds gross weight each, or some combination thereof, shall be permitted but only one MOTOR VEHICLE and/or licensed trailer and/ or equipment shall be permitted with a gross weight (including vehicle, trailer and equipment in combination) over 36,000 pounds but not more than 80,000 pounds gross weight. Weights of such MOTOR VEHICLES and trailer and / or pieces of equipment (including vehicle and equipment in combination) on the public STREET shall be in conformance with the seasonal restrictions authorized by the Illinois Vehicle Code (625 ILCS 5/15-316).
  
- ~~ii.~~(4) No more than 10 ~~vehicles~~ MOTOR VEHICLES in total, including ~~vehicles~~ MOTOR VEHICLES under 8,000 lbs. gross vehicle weight and licensed trailers and off-road vehicle shall be permitted excluding patron or employee personal ~~vehicles~~ MOTOR VEHICLES. This limit shall apply to each individual MOTOR VEHICLE or licensed trailer.

**Attachment C: Proposed Amendment to Paragraph 7.1.2 E.**  
FEBRUARY 1, 2012

- ~~iii.~~(5) All ~~Second Division vehicles~~ MOTOR VEHICLES and licensed trailers shall be stored ~~indoors~~ in an enclosed BUILDING or parked no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE.
- (6) No more than 10 complete pieces of equipment may be kept in outdoor STORAGE that is located no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE and conforming to the SCREEN requirements of Section 7.4 provided, however, that the number of pieces of equipment that may be kept in outdoor STORAGE shall be reduced by the number of MOTOR VEHICLES and trailers also parked outdoors and all other equipment must be kept in an enclosed BUILDING. This limit shall apply to each individual piece of equipment.
- (7) Parking spaces shall have required SCREENS as required by Section 7.4.
- (8) Outdoor STORAGE shall have required SCREENS as required by Section 7.6.

**2. Revise existing paragraph 7.1.2 D. to read as follows:**

(Note: Existing words to be deleted are indicated in strike out and new words to be added are underlined.)

- D. No more than one SIGN not more than six square feet in area shall be permitted on the property in addition to one MOTOR VEHICLE or one piece of equipment with the RURAL HOME OCCUPATION name or owner name affixed to the exterior and parked or stored outdoors. Any additional MOTOR VEHICLE or equipment with the RURAL HOME OCCUPATION name or owner name affixed to the exterior must be parked or stored in an enclosed BUILDING or in a parking or storage space that has a SCREEN as required by Section 7.4.